

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

REPORT

**Proposed Adoption of Pa.R.J.C.P. 148, 1146, and 1148;
Proposed Amendment of Pa.R.J.C.P. 195, 512, and 1147**

The Juvenile Court Procedural Rules Committee proposes a package to improve the Rules of Juvenile Court Procedure as they relate to the educational needs of juveniles and children. The package contains three components: 1) changes to implement the Act of November 3, 2016, P.L. 1061 concerning truancy matters; 2) changes to update Rule 1147 in light of Act 94 of 2015, P.L. 559, which amended 42 Pa.C.S. § 6351(F)(8); and 3) the creation of procedures for judicial determination of the delivery of educational services for dependent/delinquent youth in placement.

Truancy

Recently, Pennsylvania substantially revised its truancy laws. Section 5 of the Act amended Section 1333.3(F)(2) of the Public School Code to state:

The president judge of a judicial district may adopt a local policy under 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers) and the Pennsylvania Rules of Juvenile Court Procedure to provide that a juvenile probation officer may receive allegations that the child who fails to satisfy a fine or costs imposed under this section is dependent for the purpose of considering the commencement of proceedings under 42 Pa.C.S. Ch. 63.

In response, the Committee proposes amending Rule 195 to add paragraph (A)(13) to recognize that a juvenile probation officer may receive allegations that a child has failed to satisfy penalties arising from a truancy citation. Consistent with the statute, the rule first requires a local rule permitting the receipt of these allegations. It is contemplated that the local rule would provide guidance as to further actions of the juvenile probation officer with regard to those allegations.

In reviewing the legislation, the Committee believes there exists an opportunity to coordinate actions of the dependency court and the court where a truancy citation is filed when a dependent child or a “person in parental relation” to the child is charged with truancy. As amended, 24 P.S. § 13-1333.2(b)(1) requires the court to send a hearing notice to the county agency when a truancy citation is filed. Through this notice mechanism, the county agency would then provide notice of the hearing to the dependency court and the parties, as set forth in proposed new Rule 1146. Thereafter,

the dependency court judge and the truancy court judge could then coordinate proceedings.

Education Decision Makers

Act 94 of 2015 amended 42 Pa.C.S. § 6351(F)(8) to require at each permanency hearing a judicial determination of the services needed to assist a child who is 14 years of age or older to make the transition to successful adulthood. The amendment lowered the age of applicability from 16 years of age to 14. This amendment was incorporated into Rule 1608(D)(1)(k) on December 9, 2015.

Rule 1147(C)(1)(d), regarding the duties of educational decision makers (“EDMs”), requires EDMs to inquire and act to ensure that a child 16 years of age or older is receiving the necessary educational services to transition to independent living. Upon review of the legislation, the Committee believes that “services” in Section 6351(F)(8) of the Juvenile Act includes “educational services” as used in Rule 1147. Accordingly, the Committee is proposing to amend Rule 1147 and the Comment to reflect this interpretation, including the lower age.

Educational Stability

The Elementary and Secondary Education Act of 1965, *as amended*, 20 U.S.C. § 6311(g)(1)(E), requires that a child in placement remain in their school of origin unless it is not in the child’s best interest. The Committee proposes new Rule 1148 to establish a procedural requirement for the court to conduct a best interest analysis if a child in placement is not to remain in their school of origin. The purpose of this rule is to maintain the education stability of the child. Further, this requirement would extend beyond dependency proceedings to include removal of a juvenile from home in delinquency proceedings via new Rule 148. Both Rule 148 and Rule 1148 are applicable to any order resulting in the placement of a child or the removal of a juvenile from home.

Next, the Committee reviewed OMHSAS-10-02 (January 4, 2010), a DHS/PDE joint bulletin addressing the need to “unbundle” educational services from residential placement, as well as received requests for a procedural mechanism to require an order when a child or juvenile is to receive educational services in a non-educational placement. The Committee believes the provision of educational services is critical to ensuring educational stability. Accordingly, the Committee proposes paragraph (C) of Rule 148 and Rule 1148 to require a specific finding that a public school is not in the best interest of the child or juvenile when enrolling in a non-public school.

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