

## **Rule 1515. Dispositional Order.**

A. **Generally.** When the court enters a disposition, the court shall issue a written order, which provides that the disposition is best suited to the safety, protection, and physical, mental, and moral welfare of the child. The order shall include:

- 1) any findings pursuant to Rules 1512(D) and 1514;
- 2) the date of the order; and
- 3) the signature and printed name of the judge entering the order.

B. **Transfer of custody.** If the court **[decides to transfer] transfers legal and physical** custody of the child to a person or agency found to be qualified to provide care, shelter, and supervision of the child, **then** the dispositional order shall include:

- 1) the name and address of such person or agency, unless the court determines disclosure is inappropriate;
- 2) the **conditions and** limitations **[of the order, including the type of custody granted] on custody**; and
- 3) any **remaining rights and duties of the parents or guardian, including** visitation rights.

**C. Order Affecting Custody. If the court orders a transfer of custody pursuant to paragraph (B), the order shall operate to supersede any existing custody order, and should so state in the order.**

**[C]D. Guardian. If the court permits the child to remain with the parents or guardian, then [T]the dispositional order shall include any [conditions, limitations, restrictions, and obligations imposed upon the guardian] conditions and limitations on the child's legal and physical custody as is necessary for the protection of the child.**

### **Comment**

See 42 Pa.C.S. §§ 6310, 6351.

When issuing a dispositional order, the court should issue an order that is “best suited to the safety, protection, and physical, mental, and moral welfare of the child.” 42 Pa.C.S. § 6351(a). See *In re S.J.*, 906 A.2d 547, 551 (Pa. Super. [Ct.] 2006)

(citing *In re Tameka M.*, [525 Pa. 348,] 580 A.2d 750 (Pa. 1990)), for issues addressing a child's mental and moral welfare.

When making its determination for reasonable efforts made by the county agency, the court is to consider the extent to which the county agency has fulfilled its obligation pursuant to Rule 1149 regarding family finding. See also Rules 1240(B)(6), 1242(C)(2) & (3)(b) & (c), and 1330(B)(6) and Comments to Rules 1242, 1330, 1409, 1608, 1609, 1610, and 1611 for reasonable efforts determinations.

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. See 62 P. S. § 1301 *et seq.* See also Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and Comments to Rules 1242, 1408, 1409, 1512, 1514, 1608, 1609, 1610, and 1611. 45 C.F.R. § 1356.21 provides a specific foster care provider may not be placed in a court order to be in compliance with and receive funding through the Federal Financial Participation.

**As the dispositional order reflects what is best suited for the child, *supra*, the dependency court's order regarding custody pursuant to paragraph (B) supersedes any existing custody order under Title 23.**

Dispositional orders should comport in substantial form and content to the model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P. L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.pacourts.us/forms/dependency-forms>.

See *In re Tameka M.*, [525 Pa. 348,] 580 A.2d 750 (Pa. 1990).

**The transfer of legal and physical custody vests the custodian with the authority to determine the nature and treatment of the child for ordinary medical care. See 42 Pa.C.S. § 6357. For pre-dispositional examination and treatment of a child, see Rule 1145. For non-emergent, non-routine care not already included in an approved treatment plan, the custodian should seek parental consent or receive prior court authorization when consent cannot be obtained.**

**Official Note:** Rule 1515 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended \_\_\_\_\_, 2016, effective \_\_\_\_\_, 2016.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1515 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006). Final Report explaining the amendments to Rule 1515 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011). Final Report explaining the amendments to Rule 1515 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015). **Final Report explaining the amendments to Rule 1515 published with the Court's Order at Pa.B. ( , 2016).**

## **Rule 1631. Termination of Court Supervision.**

A. **Concluding Supervision.** Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

- 1) the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;
- 2) the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;
- 3) the child **is under eighteen years of age and** has been placed with a ready, willing, and able parent who was not previously identified by the county agency;
- 4) the child has been adopted and services from the county agency are no longer needed;
- 5) the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;
- 6) the child has been placed in the physical and legal custody of a fit and willing relative and services from the county agency are no longer needed;
- 7) the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed and a hearing has been held pursuant to paragraph (E) for a child who is age eighteen or older;
- 8) the child has been adjudicated delinquent and services from the county agency are no longer needed because all dependency issues have been resolved;
- 9) the child has been emancipated by the court;
- 10) the child is eighteen years of age or older and a hearing has been held pursuant to paragraph (E);
- 11) the child has died;
- 12) a court in another county of this Commonwealth has accepted jurisdiction; or

13) a court in another state has accepted jurisdiction.

- B. **[Ready, willing, and able parent. When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to paragraph (A)(3) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to the Pa.R.C.P.]**

**Order Transferring or Affecting Custody. When the court terminates supervision pursuant to paragraph (A) and the termination order includes a provision that transfers custody of the child or otherwise affects a previously entered custody order pursuant to 23 Pa.C.S. §§ 5321-5340, or similar law, the court shall:**

- 1) prepare a separate custody order specifying the legal and physical custody of the child and vacating any previous custody order for the child; and**
- 2) file the custody order with the prothonotary for the judicial district in which the termination order is filed.**

**Prior to filing the custody order with the prothonotary, the court shall ascertain whether an active custody case for the child exists within its judicial district and, if so, the court shall utilize the caption and docket number for the custody order. The court shall ensure that any parties to the custody case not also party to the dependency action are served with the order. Otherwise, the court shall separately caption the custody order with the party obtaining custody of the child as the plaintiff and the other dependency parties as the defendants.**

- C. **Objection.** Any party may object to a motion under paragraph (A) and request a hearing.
- D. **Hearing.** If objections have been made under paragraph (C), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.
- E. **Children [e]Eighteen [y]Years of [a]Age or [o]Older.**

- 1) Before the court can terminate its supervision of a child who is eighteen years of age or older, a hearing shall be held at least ninety days prior to the child turning eighteen years of age.
- 2) Prior to the hearing, the child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The county agency shall provide the transition plan to the court and the plan shall, at a minimum, include:
  - a) the specific plans for housing;
  - b) a description of the child's source of income;
  - c) the specific plans for pursuing educational or vocational training goals;
  - d) the child's employment goals and whether the child is employed;
  - e) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;
  - f) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;
  - g) verification that all vital identification documents and records have been provided to the child;
  - h) a description of any other needed support services; and
  - i) notice to the child that the child can request resumption of juvenile court jurisdiction until the child turns twenty-one years of age if specific conditions are met.
- 3) At the hearing, the court shall review the transition plan for the child. If the court is not satisfied that the requirements of paragraph (E)(2) have been met, a subsequent hearing shall be scheduled.
- 4) The court shall not terminate its supervision of the child without approving an appropriate transition plan, unless the child, after an appropriate transition plan has been offered, is unwilling to consent to the supervision and the court determines termination is warranted.

F. **Cessation of [s]Services.** When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.

### Comment

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

For guidelines under paragraph (A), see 42 Pa.C.S. § § 6301(b) & 6351(f.1).

**A child under eighteen years of age whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 757 A.2d 849 (Pa. 2000). When services from the county agency are no longer necessary pursuant to paragraph (A)(3) because the court has determined that the child is not dependent because a non-custodial parent has been found by the court to be able and available, the court should enter an order awarding custody to that parent pursuant to paragraph (B). For children eighteen years of age and older, see paragraph (E).**

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, [422 Pa. Super. 439,] 619 A.2d 758 (Pa. Super. 1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

If dependency issues have not been resolved, the case should be kept open and services ordered. The court should ensure that services are not discontinued solely because the child was adjudicated delinquent. The county agency and the juvenile probation are to collaborate on the case and resolve all outstanding issues. If a child is in a delinquency placement, the court is to ensure that the county agency and the juvenile probation office have collaborated to ensure appropriate services are in place.

For procedures on emancipation pursuant to paragraph (A)(9), see *Berks County Children and Youth Services v. Rowan*, [428 Pa. Super. 448,] 631 A.2d 615 (Pa. Super. 1993). See also, 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. See also, 55 Pa. Code § § 3103.5 & 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. [Ct.] 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, [422 Pa. Super. 439,] 619 A.2d 758 (Pa. Super. 1993).

**[A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). See paragraph (B). Paragraph (B) does not apply to resumption of jurisdiction cases.]**

**[Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a] A court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. See 42 Pa.C.S. § 6351(a)(2.1). *See also Justin S.*, [375 Pa. Super. 88,] 543 A.2d 1192 (Pa. Super. 1988). In determining permanent legal custody, the dependency court must consider the child's "safety, protection and physical, mental, and moral welfare," see 42 Pa.C.S. § 6351(a); the dependency court is not required to address the factors set forth in 23 Pa.C.S. § 5328(a)(1)-(16). Any fees associated with the filing of the custody order pursuant to paragraph (B) should be waived unless the court determines that the custodian has the financial means to pay the filing fees.**

Pursuant to paragraph (E)(2), the county agency is to assist the child and provide all the support necessary in developing a transition plan. See 42 U.S.C. § 675 (5)(A)-(H).

Pursuant to paragraph (E)(3), the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.

If the court has resumed jurisdiction pursuant to Rule 1635, a new transition plan is to be developed for the child. Before the court can terminate supervision, the requirements of paragraph (E) are to be followed. In no case is a juvenile over twenty-one to remain under juvenile court supervision. See Rule 1635(E). See also Rule 1635(E) for termination of juvenile court jurisdiction if the court denies the motion for resumption of jurisdiction.

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