

RULE 120. DEFINITIONS

ADULT is any person, other than a juvenile, eighteen years old or older.

AFFIANT is any responsible person, capable of taking an oath, who signs, swears to, affirms, or when permitted by these rules, verifies a written allegation and appreciates the nature and quality of that person's act.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law and local practice to maintain the official juvenile court file and docket, without regard to that person's official title.

COURT is the Court of Common Pleas, a court of record, which is assigned to hear juvenile delinquency matters. Court shall include masters when they are permitted to hear cases under these rules and magisterial district judges when issuing an arrest warrant pursuant to Rule 210. Juvenile Court shall have the same meaning as Court.

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

DISPOSITION is a final determination made by the court after an adjudication of delinquency or any determination that ceases juvenile court action on a case.

GUARDIAN is any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding.

INTAKE STAFF is any responsible person taking custody of the juvenile on behalf of the court, detention facility, or medical facility.

ISSUING AUTHORITY is any public official having the power and authority of a magistrate, a Philadelphia bail commissioner, or a Magisterial District Judge.

JUVENILE is a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MASTER is an attorney with delegated authority to hear and make recommendations for juvenile delinquency matters. Master has the same meaning as hearing officer.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a juvenile medically or psychologically.

MINOR is any person, other than a juvenile, under the age of eighteen.

ORDINANCE is a legislative enactment of a political subdivision.

PARTIES are the juvenile and the Commonwealth.

PENAL LAWS include all statutes and embodiments of the common law, which establish, create, or define crimes or offenses, including any ordinances that may provide for placement in a juvenile facility upon a finding of delinquency or upon failure to pay a fine or penalty.

PETITION is a formal document by which an attorney for the Commonwealth or the juvenile probation officer alleges a juvenile to be delinquent.

PETITIONER is an attorney for the Commonwealth or a juvenile probation officer, who signs, swears to, affirms, or verifies and files a petition.

PLACEMENT FACILITY is any facility, privately or publicly owned and operated, that identifies itself either by charter, articles of incorporation or program description, to receive delinquent juveniles as a case disposition. Placement facilities include, but are not limited to, residential facilities, group homes, after-school programs, and day programs, whether secure or non-secure.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of the person's employment.

POLITICAL SUBDIVISION shall mean county, city, township, borough, or incorporated town or village having legislative authority.

PROCEEDING is any stage in the juvenile delinquency process occurring once a written allegation has been submitted.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

WRITTEN ALLEGATION is the document that is completed by a law enforcement officer or other person that is necessary to allege a juvenile has committed an act of delinquency.

COMMENT

Under the term "court," to determine if masters are permitted to hear cases, see Rule 187. See Rule 210 for the power of magisterial district judges to issue arrest warrants.

The term "disposition" includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act pursuant to Rule 408(B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409(A)(1), dismissing the case "with prejudice" prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

Neither the definition of "law enforcement officer" nor the definition of "police officer" gives the power of arrest to any person who is not otherwise given that power by law.

A "petition" and a "written allegation" are two separate documents and serve two distinct functions. A "written allegation" is the document that initiates juvenile delinquency proceedings. Usually, the "written allegation" will be filed by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a "probable cause affidavit," "complaint," "police paper," "charge form," "allegation of delinquency," or the like. Once this document is submitted, a preliminary determination of the juvenile court's jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

For definition of "delinquent act," see 42 Pa.C.S. § 6302.

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Committee Explanatory Reports:

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PART D(1)
MOTION PROCEDURES

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RULE 345. FILING AND SERVICE

A. Filings.

- 1) **Generally.** Except as otherwise provided in these rules, all written motions, and any notice or document for which filing is required, shall be filed with the clerk of courts.
- 2) **Clerk of courts' duties.** Except as provided in paragraph (A)(3), the clerk of courts shall docket a written motion, notice, or document when it is received and record the time of filing in the docket. The clerk of courts promptly shall transmit a copy of these papers to such person as may be designated by the court.
- 3) **Filings by represented juveniles.** In any case in which a juvenile is represented by an attorney, if the juvenile submits for filing a written motion, notice, or document that has not been signed by the juvenile's attorney, the clerk of courts shall not file the motion, notice, or document in the juvenile court file or make a docket entry, but shall forward it promptly to the juvenile's attorney.
- 4) **Method of filing.** Filing may be accomplished by:
 - a) personal delivery to the clerk of courts; or
 - b) mail addressed to the clerk of courts, provided, however, that filing by mail shall be timely only when actually received by the clerk within the time fixed for filing.

B. Service.

- 1) **Generally.** The party filing the document shall serve the other party concurrently with the filing.

2) **Method of service to parties.** Service on the parties shall be by:

- a) personal delivery of a copy to a party's attorney, or, if unrepresented, the party; or
- b) mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office; or
- c) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box; or
- d) sending a copy to an unrepresented juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement.

C. **Proof of service.** All documents that are filed and served pursuant to this rule shall include a certificate of service.

COMMENT

See Rule 166 for maintaining records in the clerk of courts.

Under paragraph (A)(2), the court is to designate a court official to process motions and other matters for appropriate scheduling and **[disposition] resolution.**

Under paragraph (B), the party filing a document is required to serve the other party.

This rule does not affect court orders, which are to be served upon each party's attorney and the juvenile, if unrepresented, by the clerk of courts as provided in Rule 167.

For service of petitions, see Rule 331.

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Committee Explanatory Reports:

Final Report explaining the amendment to Rule 520 published with the Court's Order at 39 Pa.B. -- (--- 2009).

RULE 348. [DISPOSITION] DETERMINATION OF OMNIBUS MOTIONS

Unless otherwise provided in these rules, all omnibus motions shall be determined before the adjudicatory hearing. If necessary for the determination of the omnibus motion, the court may postpone the adjudicatory hearing.

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Committee Explanatory Reports:

Final Report explaining the amendment to Rule 520 published with the Court's Order at 39 Pa.B. -- (--- 2009).

RULE 515. DISPOSITIONAL ORDER

- A. **Generally.** When the court enters a disposition after an adjudication of delinquency pursuant to Rule 409(A)(2), the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:
- 1) the terms and conditions of the disposition;
 - 2) the name of any agency or institution that is to provide care, treatment, supervision, or rehabilitation of the juvenile;
 - 3) a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(i) for limited public information;
 - 4) the date of the order; and
 - 5) the signature and printed name of the judge entering the order.
- B. **Restitution.** If restitution is ordered in a case, the dispositional order shall include:
- 1) a specific amount of restitution to be paid by the juvenile;
 - 2) to whom the restitution is to be paid; and
 - 3) a payment schedule, if so determined by the court.
- C. **Guardian participation.** The court shall include any obligation in its dispositional order imposed upon the guardian.

COMMENT

Pursuant to paragraph (A)(3), the court is to determine if the case is eligible for limited public information under the requirements of 42 Pa.C.S. § 6307 (b)(1)(i). See 42 Pa.C.S. § 6307 (b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. § 6310.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission 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.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

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**PART C.
POST- DISPOSITIONAL MOTIONS**

RULE 520. POST- DISPOSITIONAL MOTIONS

A. Optional Post-Dispositional Motion.

- 1) The parties shall have the right to make a post-dispositional motion. All requests for relief from the court shall be stated with specificity and particularity, and shall be consolidated in the post-dispositional motion.
- 2) Issues raised before or during the adjudicatory hearing shall be deemed preserved for appeal whether or not the party elects to file a post-dispositional motion on those issues.

B. Timing.

- 1) If a post-dispositional motion is filed, it shall be filed no later than ten days after the imposition of disposition.
- 2) If a timely post-dispositional motion is filed, the notice of appeal shall be filed:
 - a) within thirty days of the entry of the order deciding the motion;
 - b) within thirty days of the entry of the order denying the motion by operation of law in cases in which the judge fails to decide the motion; or
 - c) within thirty days of the entry of the order memorializing the withdrawal in cases in which a party withdraws the motion.
- 3) If a post-dispositional motion is not timely filed, a notice of appeal shall be filed within thirty days of the imposition of disposition.

C. Court Action.

- 1) **Briefing Schedule and Argument.** Within ten days of the filing of the post-dispositional motion, the court shall:
 - a) determine if briefs, memoranda of law, or oral arguments are required; and
 - b) set a briefing schedule and dates for oral argument, if necessary.

- 2) **Failure to Set Schedule.** If the court fails to act according to paragraph (C)(1), briefs and oral arguments are deemed unnecessary.
- 3) **Transcript.** If the grounds asserted in the post-dispositional motion do not require a transcript, neither the briefs nor arguments on the post-dispositional motion shall be delayed for transcript preparation.

D. Time Limits for Decision on Motion. The judge shall not vacate disposition pending the decision on the post-dispositional motion, but shall decide the motion as provided in this paragraph.

- 1) Except as provided in paragraph (D)(2), the judge shall decide the post-dispositional motion as soon as possible but within thirty days of the filing of the motion. If the judge fails to decide the motion within thirty days, or to grant an extension as provided in paragraph (D)(2), the motion shall be deemed denied by operation of law.
- 2) Upon motion of a party within the 30-day disposition period, for good cause shown, the judge may grant one 30-day extension for decision on the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.
- 3) When a post-dispositional motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court, and, as provided pursuant to Rule 167, **[forthwith]** shall serve a copy of the order on each attorney and the juvenile, if unrepresented, that the post-dispositional motion is deemed denied. This order is not subject to reconsideration.
- 4) If the judge denies the post-dispositional motion, the judge promptly shall issue an order and the order shall be filed and served as provided in Rule 167.
- 5) If a party withdraws a post-dispositional motion, the judge promptly shall issue an order memorializing the withdrawal, and the order shall be filed and served as provided in Rule 167.

E. Contents of order. An order denying a post-dispositional motion, whether issued by the judge pursuant to paragraph (D)(4) or entered by the clerk of courts pursuant to paragraph (D)(3), or an order issued following a party's withdrawal of the post-dispositional motion pursuant to paragraph (D)(5), shall include notice to the party of the following:

- 1) the right to appeal;
- 2) the time limits within which the appeal shall be filed; and

3) the right to counsel in the preparation of the appeal.

F. **After-discovered evidence.** A motion for a new adjudication on the grounds of after-discovered evidence shall be filed in writing promptly after such discovery. If an appeal is pending, the judge may grant the motion only upon remand of the case.

COMMENT

The purpose of this rule is to promote the fair and prompt **[disposition] resolution** of all issues relating to admissions, adjudication, and disposition by consolidating all possible motions to be submitted for court review, and by setting reasonable but firm time limits within which the motion is to be decided. Because the post-dispositional motion is optional, a party may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.

For the definition of “disposition,” see Rule 120 and its Comment.

OPTIONAL POST- DISPOSITIONAL MOTION

See *In re Brandon Smith*, 393 Pa.Super. 39, 573 A.2d 1077 (1990), for motions on ineffective assistance of counsel.

Under paragraph (A)(2), any issue raised before or during adjudication is deemed preserved for appeal whether a party chooses to raise the issue in a post-dispositional motion. It follows that the failure to brief or argue an issue in the post-dispositional motion would not waive that issue on appeal as long as the issue was properly preserved, in the first instance, before or during adjudication. Nothing in this rule, however, is intended to address Pa.R.A.P. 1925(b) or the preservation of appellate issues once an appeal is filed. See *Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (1998) (any issues not raised in a 1925(b) statement will be deemed waived).

Under paragraph (B)(1), if a party chooses to file a post-dispositional motion, the motion is to be filed within ten days of imposition of disposition. The filing of the written post-dispositional motion triggers the time limits for decision on the motion. See paragraph (D)(1).

TIMING

Paragraph (B) contains the timing requirements for filing the optional post-dispositional motion and taking an appeal. Under paragraph (B)(1), the post-dispositional motion is to be filed within ten days of imposition of disposition. Supplemental motions may be filed but the time requirements of paragraph (B)(1) are to be followed.

When a party files a timely post-dispositional motion, the 30-day period for the juvenile's direct appeal on all matters in that case is triggered by the judge's decision on the post-dispositional motion, the denial of the motion by operation of law, or the withdrawal of the post-dispositional motion. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by the party while the post-dispositional motion is pending. See paragraph (B)(2).

If no timely post-dispositional motion is filed, the party's appeal period runs from the date disposition is imposed. See paragraph (B)(3).

BRIEFS; TRANSCRIPTS; ARGUMENT

Under paragraph (C)(1), the judge should determine, on a case-by-case basis, whether briefs, memoranda of law, or arguments are required for a fair resolution of the post-dispositional motion. If they are not needed, or if a concise summary of the relevant law and facts is sufficient, the judge should so order. Any local rules requiring briefs or oral argument are inconsistent with this rule. See Rule 121(C).

Under paragraph (C)(3), the judge, in consultation with the attorneys, should determine what, if any, portions of the notes of testimony are to be transcribed so that the post-dispositional motion can be resolved. The judge should then set clear deadlines for the court reporter to insure timely **[disposition] resolution** of the motion. Nothing in this rule precludes the judge from ordering the transcript or portions of it immediately after the conclusion of the adjudicatory hearing or the entry of an admission.

For the recording and transcribing of court proceedings generally, see Rule 127. The requirements for the record and the writing of an opinion on appeal are set forth in the Pennsylvania Rules of Appellate Procedure.

There is no requirement that oral argument be heard on every post-dispositional motion. When oral argument is heard on the post-dispositional motion, the juvenile need not be present.

DISPOSITION

Under paragraph (D), once a party makes a timely written post-dispositional motion, the judge retains jurisdiction for the duration of the disposition period. The judge may not vacate the order imposing disposition pending decision on the post-dispositional motion.

Paragraph (D)(2) permits one 30-day extension of the 30-day time limit, for good cause shown, upon motion of a party. In most cases, an extension would be requested and granted when new counsel has entered the case. Only a party may request such an extension. The judge may not, *sua sponte*, extend the time for decision: a congested court calendar or other judicial delay does not constitute "good cause" under this rule.

The possibility of an extension is not intended to suggest that thirty days are required for a decision in most cases. The time limits for **[disposition] resolution** of the post-dispositional motion are the outer limits. Easily resolvable issues, such as a modification of disposition or an admission challenge, should ordinarily be decided in a much shorter period of time.

If the judge decides the motion within the time limits of this rule, the judge may grant reconsideration on the post-dispositional motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701(b)(3), but the judge may not vacate the disposition pending reconsideration. The reconsideration period may not be used to extend the timing requirements set forth in paragraph (D) for decision on the post-dispositional motion: the time limits imposed by paragraphs (D)(1) and (D)(2) continue to run from the date the post-dispositional motion was originally filed. The judge's reconsideration, therefore, is to be resolved within the 30-day decision period of paragraph (D)(1) or the 30-day extension period of paragraph (D)(2), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-dispositional motion, including any issues raised for reconsideration, will be denied pursuant to paragraph (D)(3).

Under paragraph (D)(1), on the date when the court disposes of the motion, or the date when the motion is denied by operation of law, the judgment becomes final for the purposes of appeal. See Judicial Code, 42 Pa.C.S. §§ 102, 722, 742, 5105(a) and *Commonwealth v. Bolden*, 472 Pa. 602, 373 A.2d 90 (1977). See Pa.R.A.P. 341.

An order entered by the clerk of courts under paragraph (D)(3) constitutes a ministerial order and, as such, is not subject to reconsideration or modification pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.

If the motion is denied by operation of law, paragraph (D)(3) requires that the clerk of courts enter an order denying the motion on behalf of the court and immediately notify the attorneys, or the juvenile, if unrepresented, that the motion has been denied. This notice is intended to protect the party's right to appeal. The clerk of courts also is to comply with the filing, service, and docket entry requirements of Rule 167.

CONTENTS OF ORDER

Paragraph (E) protects a party's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a party's withdrawal of a post-dispositional motion, contain written notice of the party's appeal rights. This requirement ensures adequate notice to the party, which is important given the potential time lapse between the notice provided at disposition and the resolution of the post-dispositional motion. *See also Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. Ct. 1998), concerning the contents of the order memorializing the withdrawal of a post-dispositional motion.

When a party withdraws a post-dispositional motion in open court and on the record, the judge should orally enter an order memorializing the withdrawal for the record, and give the party notice of the information required by paragraph (E). *See Commonwealth v. Miller, supra.*

MISCELLANEOUS

Under paragraph (A)(1), the grounds for the post-dispositional motion should be stated with particularity. Motions alleging insufficient evidence, for example, are to specify in what way the evidence was insufficient, and motions alleging that the court's findings were against the weight of the evidence are to specify why the findings were against the weight of the evidence.

Because the post-dispositional motion is optional, the failure to raise an issue with sufficient particularity in the post-dispositional motion will not constitute a waiver of the issue on appeal as long as the issue was preserved before or during adjudication. *See* paragraph (A)(2).

Issues properly preserved at the dispositional hearing need not, but may, be raised again in a motion to modify disposition in order to preserve them for appeal. In deciding whether to move to modify disposition, counsel carefully is to consider whether the record created at the dispositional hearing is adequate for appellate review of the issues, or the issues may be waived. *See Commonwealth v. Jarvis*, 444 Pa.Super. 295, 663 A.2d 790 (1995). As a general rule, the motion to modify disposition under paragraph (A)(1) gives the dispositional judge the earliest opportunity to modify the disposition. This procedure does not affect the court's inherent powers to correct an illegal disposition or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. *See, e.g., Commonwealth v. Jones*, 520 Pa. 385, 554 A.2d 50 (1989) (court can, *sua sponte*, correct an illegal sentence even after the defendant has begun probation or placement) and *Commonwealth v. Cole*, 437 Pa. 288, 263 A.2d 339 (1970) (inherent power of the court to correct obvious and patent mistakes).

Once a disposition has been modified or reimposed pursuant to a motion to modify disposition under paragraph (A)(1), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify disposition in order to preserve an issue for appeal, as long as the issue was properly preserved at the time disposition was modified or reimposed.

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