

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
JUVENILE DIVISION

IN RE: ADMINISTRATIVE ORDER
SPECIFIC TO JUVENILE
DEPENDENCY PROCEDURES
REGARDING MODIFICATION OF
A CHILD'S PLACEMENT

NO. A.D. 10-2021

CLERK OF COURTS
2021 FEB -4 AM 8:44
LANCASTER COUNTY, PA

ADMINISTRATIVE ORDER

AND NOW, this 4th day of February, 2021, the Lancaster County Court of Common Pleas, having recognized the importance of adopting best practices in reducing trauma for children in placement, and seeking to clarify and emphasize the Court's reliance on Rule 1606 of the Pennsylvania Rules of Juvenile Court Procedure regarding all modifications of a child's placement in a dependency proceeding,¹ hereby ADOPTS the following Placement Modification Protocol:

1. Pursuant to Pa.R.J.C.P. 1606(A), whenever a change in a child's placement is sought, the Lancaster County Children and Youth Social Service Agency (Agency) shall seek approval of the Court for change in placement prior to the removal of the child from the placement.
 - a. **Emergency Cases.** The Agency shall seek approval from the assigned judge prior to any emergency change in placement. Only in an emergency when a judge cannot be reached may the Agency temporarily modify a

¹"[P]rior to July 1, 2011, 'the county agency was not obligated by statute or rule to obtain judicial permission prior to modifying a dependent child's placement.' *In re J.F.*, 27 A.3d 1017, 1020 (Pa. Super. 2011). However, on July 1, 2011, Pennsylvania Rule of Juvenile Court Procedure 1606 became effective, and that rule requires the county agency to seek court permission prior to a change in placement, except in an emergency when a judge cannot be reached." *Burns v. Dep't of Human Services*, 190 A.3d 758, 764-65 (Pa.Cmwlth. 2018) (*citing* Pa.R.J.C.P. 1606). The Comment to Rule 1606 notes that prior Court approval is necessary because "[s]tability for the child is critical. Multiple placements can add to a child's trauma. A child should not be shuffled from home to home out of convenience for a foster parent, relative, or other person caring for the child."

child's placement without prior Court approval. See Pa.R.J.C.P. 1606(A)(1)(a).

Note: It is unlikely this will occur as the assigned judge in most instances can be reached or if he or she is on vacation a judge will be designated to provide backup coverage. The Agency will be notified ahead of time if a backup judge is designated.

Note: An "emergency" under which the Agency may change the child's location prior to obtaining Court approval is limited to emergency shelter placements or when the Agency has reason to suspect that a child is at risk of imminent abuse. See 55 Pa. Code § 3130.74(d) (citing definition of "emergency" under §§ 3130.68(b) and 3130.68(i)).

- i. The Agency solicitors have been provided current emergency contact information for all dependency judges.
- ii. The Agency shall reach out to the assigned judge or designated backup judge using the emergency contact information provided. If the emergency occurs during normal business hours, the Agency shall first reach out to chambers prior to using the emergency contact information. The judge will immediately, by verbal or written response, notify the Agency if temporary relief is to be granted.
- iii. If an emergency exists and the judge grants temporary relief, or in the unlikely event an emergency exists and a judge cannot be reached, the Agency shall (1) immediately notify the Court and all parties of the emergency change in placement, and (2) file a written motion seeking the Court's approval of the emergency placement (move) on the next business day. See Pa.R.J.C.P. 1606(A)(1)(b)-(c).

b. Non-emergent Cases.

- i. In all other cases, the Agency shall seek approval of the Court by filing a motion for modification of the child's placement, unless

stipulated on the record in court by all parties with approval of the Judge. See Pa.R.J.C.P. 1606(A)(2), (D)(1).

- ii. In any situation where the Agency believes a change in placement is necessary and there is insufficient time to prepare a motion for modification of placement, the Agency must contact the assigned judge for approval prior to moving the child.

2. Motions for modification of placement.

- a. The contents of the motion shall be in strict adherence to the requirements set forth in Pa.R.J.C.P. 1606(B), including subsection (6) concerning signature of all parties, including the guardian *ad litem*, or an explanation as to their unavailability. Such signatures may be made electronically.

Note: Approval signatures may be accomplished electronically or by confirmation emails which shall be attached to the motion. For parents who are unable to sign the motion electronically or physically or are unable to be located, the Agency caseworker shall attach an affidavit to the modification motion stating: (1) the reasons why the parent cannot be located or why the parent did not have the ability to sign; (2) that the move was explained; and (3) whether the parent agreed or did not agree.

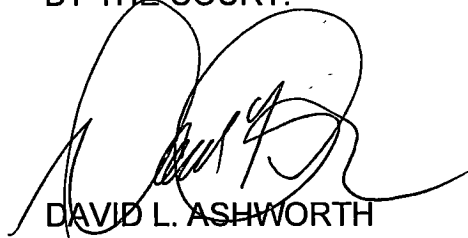
Note: The child's preference must also be stated in the modification motion, and if the child disagrees with the move then a hearing shall be scheduled, and a best-interest attorney may need to be appointed on behalf of the child.

- b. Any party may object to the proposed move by notifying the Agency no later than three days after the filing of the motion, and a prompt hearing shall be set by the Court upon notification by the Agency of a party's objection. See Pa.R.J.C.P. 1606(C), (D).
- c. Once the three days have passed after the filing of the modification motion, the Agency shall refer the motion to the Court to review.

- d. The Court may *sua sponte* request a hearing if more information is needed by the Court to determine whether the move is in the best interests of the child. See Pa.R.J.C.P. 1606(D)(1).
3. Failure to strictly abide by these procedures which set forth the standards found in Pa.R.J.C.P 1606 may result in further Court action and possible sanctions.
4. Any individual case move concerns shall be addressed to the assigned judge. If the matter is regarding a dual-status youth, the Office of Juvenile Probation must be contacted and approve any proposed move. The Court may still require a hearing on the matter.


This Order is effective February 15, 2021.

BY THE COURT:



DAVID L. ASHWORTH
PRESIDENT JUDGE

ATTEST:



Copies to: Lancaster County Board of Judges
Lancaster County Magisterial District Judges
Lancaster County District Court Administrator
Lancaster County Adult Probation & Parole Services
Lancaster County Children and Youth Social Service Agency
Lancaster County Clerk of Courts
Lancaster County Clerk of the Orphans' Court
Lancaster County District Attorney
Lancaster County Domestic Relations
Lancaster County Juvenile Probation
Lancaster County Law Library
Lancaster County Office of Official Court Reporter
Lancaster County Prison
Lancaster County Prothonotary
Lancaster County Public Defender
Lancaster County Register of Wills
Lancaster County Sheriff
Lancaster County Board of Commissioners
Lancaster County Solicitor