



SALLY HOLEWA
STATE COURT ADMINISTRATOR

State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

SUPREME COURT
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TO: Chief Justice Gerald W. VandeWalle

FROM: Sally Holewa *Spink*

DATE: March 3, 2014

SUBJECT: Juvenile Policy Board Recommendation on AR 35

At the request of Judge Herauf, I am forwarding the Juvenile Policy Board recommendation to shorten the comment period for policies and procedures adopted under Administrative Rule 35.

This issue was first considered by the Court at their July 13, 2013 Administrative Conference as a suggestion from me to amend the comment period to 15 days (see attached memo dated June 13, 2013). The Court referred the proposed change to the Juvenile Policy Board for their recommendation.

The Juvenile Policy Board considered the suggestion at its February 28, 2014 meeting and is recommending that AR 35 be amended to shorten the mandatory 45-day comment period to a 30-day period. The mandatory reporting is only to internal stakeholders and the shorter period is closer to the length of the comment periods for Personnel Policy Board (15 days) and the Administrative Council (30 days). The Juvenile Policy Board was concerned that a 15-day comment period would not be enough time to convene a district judge's meeting in the event that a district wanted to have the presiding judge submit a comment on behalf of the district in response to a proposed policy or procedure.

Attachment

JUVENILE POLICY BOARD**Administrative
Rule 35****Section 1. Statement of Authority and Intent.**

Under Article VI, Section 3, of the North Dakota Constitution, the Supreme Court has the authority to adopt rules of procedure to be followed by all courts of the state, and to establish the powers, duties, and qualifications of court officials. The Supreme Court has administrative responsibility over all courts of the state and may establish rules to exercise that administrative authority as it deems necessary or desirable (27-02-05.1, NDCC).

It is the intent of the North Dakota Judicial System to establish a mechanism for the development of administrative policies and procedures which will define the mission of juvenile court services consistent with 27-20-01, NDCC; to provide the administrative mechanism and authority to ensure the implementation of the policies; and to ensure the full involvement of judges and personnel of the North Dakota Judicial System in the development of such policies and procedures.

Section 2. Effect of Policies.

The administrative policies adopted by the Supreme Court pursuant to this rule govern the actions of the juvenile courts and personnel of the juvenile courts in North Dakota.

Section 3. Membership.

The Juvenile Policy Board shall consist of three district judges appointed by North Dakota Judges' Association, one district judge and one judicial referee appointed by the Administrative Council, one district judge or supreme court justice appointed by the Chief Justice, one juvenile court officer appointed by the Chief Justice from a list submitted by the Juvenile Court Association, and one juvenile director appointed by the Chief Justice. Terms of the members shall be for a three-year period and shall be staggered in such a manner to ensure that at least two members shall be up for election or appointment annually. A member may not serve more than three consecutive terms. A former member who served three consecutive terms is eligible for reappointment after a six-year break in service. The Chief Justice may appoint members to fill vacancies which occur for an unexpired term. The membership shall reflect the geographic and population diversities of the state and no more than two judges may be from any one judicial district.

Section 4. Development of Long Term Planning for Delivery of Juvenile Court Services.

Prior to the end of the first fiscal year of each biennium, the Juvenile Policy Board shall forward to the Supreme Court recommendations to update a continuing five-year plan for the delivery of juvenile court services. The plan shall establish priority for the delivery of services, identify program needs, recommend cooperative agreements with other state, local or private agencies, and may recommend specific budget items to be included in the judicial system budget request.

Section 5. Establishment or Amendment of Juvenile Court Policies and Procedures.

- A. The Juvenile Policy Board may recommend to the Supreme Court policies relating to the operation of the juvenile court, pursuant to the following:
1. The policies shall be consistent with state law and court rules.
 2. The operation of the juvenile court shall be defined to include:
 - a. intake;
 - b. diversion;
 - c. probation;
 - d. placement;
 - e. workload standards;
 - f. training standards.
 3. Any matter relating to pleadings, practice, or procedure including Appellate Procedure, Rules of Evidence, Rules of Criminal Procedure, Rules of Civil Procedure, or special rules of procedure for the conduct of formal juvenile court hearings shall be forwarded to the Joint Procedure Committee, for its consideration, approval and recommendation to the Supreme Court.
- B. Operating Procedures.
- The Juvenile Policy Board may issue operating procedures and guidelines to be followed by the juvenile courts in implementing state law or administrative policies which have been approved by the Supreme Court.
- C. Notice.

Before forwarding a recommended policy or adopting a procedure, the Juvenile Policy Board will solicit comments by notifying all district court judges and appropriate district court personnel of the proposed policy or procedure. The notice shall be at least ~~45~~ 30 days prior

- 1) to forwarding the recommendation to the Supreme Court or the Joint Procedure Committee, or
- 2) to adopting a procedure to implement state law or approved policy.

If it is determined that immediate action is required, the timeframe for comment may be suspended and the recommended policy may be forwarded to the Supreme Court along with the justification of expedited recommendation, or the procedure may be adopted by the Juvenile Policy Board on an interim basis pending comment.

Section 6. Administration.

- A. It is the intent of this rule to leave the direct supervision of juvenile court employees at the district court level.

It is also the intent to assure the consistent delivery of programs and services through the Policy Board and the State Juvenile Services Coordinator (or such other person within the State Court Administrator's Office assigned the juvenile portfolio regardless of title).

- B. The State Juvenile Services Coordinator shall have the responsibility and authority to assure implementation of policies as approved by the Supreme Court and procedures approved by the Board. The coordinator will work with the juvenile courts on a statewide basis and on an individual basis to assure implementation. The Coordinator shall make recommendations and reports to the judges of the district, the Policy Board, or the Supreme Court in matters relating to budget, staffing, personnel, programs, performance and other related matters.

SOURCE: N.D. Const. art. VI, § 3; N.D.C.C. § 27-02-05.1; N.D.C.C. § 27-20-01. N.D. Sup. Ct. Admin. R. adopted as an emergency rule effective June 24, 1992; amended and readopted July 27, 1992; amended and readopted effective January 1, 1995; amended effective April 1, 2006 (Supreme Court No. 20060059); amended effective August 15, 2007; amended effective March 6, 2013; amended effective _____.



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TO: Chief Justice Gerald W. VandeWalle
FROM: Sally Holewa, State Court Administrator *SH*
RE: Proposed Change to AR 35 - Juvenile Policy Board
DATE: June 13, 2013

Administrative Rule 35(5)(C) establishes a mandatory 45-day comment period before recommending a policy or adopting a procedure. The required notice is to internal stakeholders only.

The only other committees that require a comment period are Administrative Council (30-day notice to internal stakeholders) and Personnel Policy Board (15-day notice to internal stakeholders).

Because the 45-day period is longer than other comment periods and the notice is just to internal stakeholders, it is my recommendation that it be shortened to a 15-day period.

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