

DEPENDENCY HEARINGS POLICIES AND PROCEDURES
(Effective Date August 1, 2023)

GENERAL MAGISTRATE DANIEL J. FREYBERG

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These procedures are intended to simplify the dependency hearing process, not to make it more burdensome. Above all, attorneys, parents, participants and witnesses are expected to be flexible and reasonable. Counsel and self-represented parties are expected to keep themselves advised as to the requirements and status of attendance at dependency proceedings.

Dependency courts have now been given guidance regarding proceedings via remote technologies. Pursuant to Rule 8.255, Florida Rule of Juvenile Procedure, **evidentiary hearings** must be conducted **in person** unless the requirements under the rule have been met otherwise for a hybrid or virtual hearing. All other proceedings before the General Magistrate are conducted virtually, per the following guidelines.

VIRTUAL HEARING PROCEDURES

ALL HEARINGS BEFORE THE GENERAL MAGISTRATE (EXCEPT FOR EVIDENTIARY HEARINGS AS OUTLINED HEREIN) SHALL BE CONDUCTED VIRTUALLY BY MICROSOFT TEAMS, AND NOT IN PERSON.

To attend hearings before General Magistrate Daniel Freyberg virtually, you will join via the link below. Please share this Microsoft Teams link/phone number with necessary parties: <https://fl18.org/gmdf1>

For those who must call-in using audio only, the following phone number and designated pin number are as follows:

Or call in (audio only)
+1 386-310-1754
Phone Conference ID: **325 602 460#**



Please take note that the link/phone number will not change on a daily basis.

To ensure that virtual hearings run smoothly, all participants shall abide by the following procedures:

TECHNOLOGY AND DEVICE REQUIREMENTS

Hearings will be conducted using Microsoft Teams. Participants shall download the free Microsoft Teams App from <http://teams.microsoft.com/downloads> (for a computer) or from the App Store for their smartphone or electronic device. All participants are expected to download the app/program in advance of the hearing and become sufficiently proficient to permit the hearing to proceed. Each participant shall ensure that he or she has sufficient bandwidth to permit the hearing to proceed.

Each participant shall also ensure that he or she has the proper equipment to fully participate in the proceeding and that any device being used is sufficiently/completely charged to ensure full participation.

ATTENDING A HEARING

1. Counsel will be responsible for providing the link to the hearing to all parties and witnesses.
2. Hearing participants will click on the meeting link invitation provided. **NOTE:** you may be entering a “lobby” that has many other attendees. After you enter, **immediately make sure that your microphone is muted and your camera is closed, until your case is called or you are addressed by the Court/General Magistrate.** When you are addressed by the Court/General Magistrate, unmute your microphone and open your camera. To mute or unmute your microphone from a phone, press *6.
3. The Court/General Magistrate prefers that all participants appear on camera, rather than simply by audio means. If at any time a participant has any technical issues with hearing or seeing anything, or if their screen freezes, please let the Court/General Magistrate know immediately.
4. This is a virtual court proceeding and all attendees are expected to dress in a professional manner. Beverages are permitted, but no eating and no smoking.
5. Discovery, evidence, and other rules of procedure still apply.

EVIDENTIARY HEARING PROCEDURES

As noted, pursuant to Rule 8.255, Florida Rule of Juvenile Procedure, **evidentiary hearings** must be conducted **in person** unless the requirements under the rule have been met otherwise for a hybrid or virtual hearing. Therefore, the Court/General Magistrate will conduct these hearings in a designated courtroom unless a hybrid or virtual hearing has been authorized.

Parties are encouraged and required to discuss any stipulation for a hybrid or virtual hearing and ensure that an order is entered prior to such evidentiary hearing. If no agreement is reached, pursuant to the rule, a motion must be filed setting forth good cause for the hybrid or virtual hearing. These motions should be heard in advance of the evidentiary hearing.

If a hybrid or virtual hearing is approved by the Court/General Magistrate, to ensure that virtual or hybrid evidentiary hearings run smoothly, all participants shall abide by the procedures noted above along with the following procedures:

PREPARING EVIDENCE FOR A VIRTUAL EVIDENTIARY HEARING

1. **No later than five (5) business days before the hearing**, counsel shall exchange any and all exhibits and have a substantive, good faith telephone conference to address stipulations and objections to the admissibility of exhibits. The parties are encouraged to reach an agreement as to the admissibility of all evidence. Exhibits to be entered by way of other witnesses shall be shared with those persons as well.
2. After the substantive, good faith telephone conference, and **no later than three (3) business days before the hearing**, the parties are to scan and email their exhibits to the Court/General Magistrate. Each document shall be in .pdf format and compiled into a single file. The first document in the file shall be an index identifying each document by title. Documents are not required to be pre-marked or labelled. **NOTE:** After review, the Court/General Magistrate may require that any voluminous evidence packages be printed by counsel and delivered to the courthouse prior to the hearing.
3. The proponent of any exhibit which will be entered without objection shall note that on the index page.
4. If there are objections to the admissibility of any exhibits, the party raising the objection shall identify the exhibit and identify the ground(s) of the objection. Such objections shall be emailed to the Court/General Magistrate and the opposing side and all parties shall be copied on any such correspondence. All objections are preserved and shall be ruled on at the hearing.
5. Identification of witnesses, and the administration of an oath shall be governed by the rules of procedure.
6. In lieu of witness testimony, the parties may stipulate to the facts to be considered by the Court/General Magistrate by emailing a signed stipulation, with the facts set forth, to the Court/General Magistrate prior to the hearing.
7. For any evidentiary motion hearings before the Court/General Magistrate, at which witness testimony is expected to be presented, counsel shall exchange witness lists that include the witnesses' names, email address, cell phone number, and/or landline phone number, unless subject to confidentiality.
8. Counsel shall identify any witness for whom an interpreter or an accommodation under the ADA will be required sufficiently before the hearing so that accommodations can be arranged. To schedule a Spanish Interpreter, please email Alejandra Martinez (Alejandra.Martinez@flcourts18.org) and Marta Vittitoe (marta.vittitoe@flcourts18.org) to make necessary arrangements.

PREPARING WITNESSES FOR A VIRTUAL EVIDENTIARY HEARING

NOTE: Counsel is responsible for providing these instructions to any witnesses and ensuring their compliance.

1. If the rule of sequestration is invoked, the witness may be instructed to leave the Teams video meeting. Counsel presenting the witness will be responsible for contacting the witness when it is time for their testimony.
2. The witness must be provided copies of all identified exhibits that pertain to that witness, prior to the hearing.
3. The witness shall be instructed not to look at or to refer to any document or electronic device during his or her testimony, nor have any communication of any kind with anyone that is not the lawyer questioning them or without the authorization of the Court/General Magistrate.
4. The witness may be required to use his or her camera to scan the room before and after testimony and may not use a virtual background.
5. The attorney or self-represented party may not assist the witness with answers in any way, including, but not limited to, gestures, notes, or facial expressions, or otherwise impact or influence the witness' testimony "off camera".
6. Having two participants in the same room using different devices is extremely discouraged as it will cause "feedback", which will make the proceedings impossible. All participants using different devices should be in different rooms.

PROCEDURES DURING THE VIRTUAL EVIDENTIARY HEARING

1. At the beginning of the virtual hearing, the Court/General Magistrate will call the case and instruct all participants when to announce themselves for purposes of the record.
2. All participants shall place their microphone on mute (on a cellular device, press *6) unless they are speaking or wish to make an objection. Use of the "raised hand" feature can be used and is helpful so that the Court/General Magistrate knows a participant wishes to address the Court/General Magistrate.
3. The use of technology requires a rigid rule of speaking one at a time. All proceedings before the Court/General Magistrate are recorded by Brevard Digital Court Reporters. Participants **MAY NOT** use the Microsoft Teams App or any other device to record the virtual evidentiary hearing.
4. No one shall interrupt, or "talk over" other speakers during the hearing, unless it is necessary to assert an objection. Attorneys are advised to instruct all witnesses that if they hear someone talking after a question, they must pause before answering so the Court/General Magistrate can address any objections.

5. If an interpreter is necessary, all participants shall speak slowly, in short, complete sentences or questions, and allow time for translation. No one shall respond to a question posed by another participant until the question has been translated fully. Any case with interpreters must be designated as such in any request for a hearing. Again, please contact Alejandra Martinez (Alejandra.Martinez@flcourts18.org) and Marta Vittitoe (marta.vittitoe@flcourts18.org) to schedule Spanish Interpreter services.
6. All participants are required to ensure that no children are able to hear or see the virtual evidentiary hearing, unless children are participating.
7. All participants are required to identify anyone that may be observing the proceedings with them. This is essential for the rule of sequestration to be effective and ensure the credibility of all witness testimony.

PROCEDURES FOR SUBMITTING PROPOSED REPORTS & RECOMMENDATIONS

1. All proposed Reports & Recommendations shall be submitted as an e-mail attachment to the workflow account* within 15 days after a hearing, unless otherwise specified by the General Magistrate.
 - a. *Separate instructions are available upon request.
2. All proposed Reports & Recommendations where all parties have waived the 10-day exceptions period, shall also include the Order Adopting the Report & Recommendation language and proper coding for the judge's signature. You may e-mail the Judicial Assistant to request this language, if needed.
 - a. Effective immediately, all orders must include the nunc pro tunc date of the original hearing date in the "DONE and ORDERED" line of the order where the judge will sign.

PROCEDURES FOR SCHEDULING A HEARING

1. All requests for hearing time should be e-mailed with an attached copy of the e-filed motion to the Judicial Assistant, Amanda Avalos (Amanda.Avalos@flcourts18.org).
2. You must copy all parties on your email.
3. Your email must indicate how much hearing time is being requested, and a statement that all parties have stipulated to the amount of hearing time requested.
4. As a reminder, any stipulated motions likely do not require a hearing. For stipulated motions, you can submit a proposed order via the e-portal for review by the judge.
5. After a hearing date and time is confirmed, the moving party must e-file the Notice of Hearing within 3 days noting the time allotted for the hearing.
6. All hearings set on the General Magistrate's docket must indicate "**set before General Magistrate Dan Freyberg**" on the Notice, as it will now be a separate calendar.