

RULE 56. ADMISSION OR DENIAL - PERMANENCY OR TERMINATION OF PARENTAL RIGHTS**Rule 56.01. Generally**

Subd. 1. Permanent Placement Matters. In a permanent placement matter other than a termination of parental rights matter, only the legal custodian of the child who is not a petitioner is required to admit or deny the petition. Any party has the right to object to an admission or to contest the basis of a petition.

Subd. 2. Transfer of Permanent Legal and Physical Custody to a Relative. When there is a petition for transfer of permanent legal and physical custody to a relative who is not represented by counsel, the court may not enter an order granting the transfer of custody unless there is testimony from the proposed custodian establishing that the proposed custodian understands:

- (a) the legal consequences of a transfer of permanent legal and physical custody;
- (b) the nature and amount of financial support and services that will be available to help care for the child;
- (c) how the custody order can be modified; and
- (d) any other permanent placement options available for the subject child.

Subd. 3. Termination of Parental Rights Matters. In a termination of parental rights matter, only parents of the child are required to admit or deny the petition. Any party has the right to object to an admission or to contest the basis of a petition. The county attorney has the right to contest the basis of a petition filed by an individual who is not a county attorney or an agent of the Commissioner of Human Services.

Rule 56.02. Denial

Subd. 1. Denial Without Appearance. A written denial or a denial on the record of the statutory grounds set forth in a petition may be entered by counsel without the personal appearance of the person represented by counsel.

Subd. 2. Scheduling Order. When a denial by any party is entered, the court shall schedule further proceedings pursuant to Rule 57 or Rule 58, and shall issue a scheduling order. The scheduling order shall establish deadlines for:

- (a) completion of discovery and other pretrial preparation;
- (b) serving, filing, or hearing motions;
- (c) submission of the proposed case plan;
- (d) the pretrial conference;
- (e) the trial;
- (f) the disposition hearing;
- (g) the permanency placement determination hearing; and
- (h) any other events deemed necessary or appropriate.

The scheduling order shall comply with the requirements of Rule 6.

Rule 56.03. Admission

Subd. 1. Admission Under Oath. Any admission must be made under oath.

Subd. 2. Admission Without Appearance. Upon approval of the court, a written admission of the statutory grounds set forth in the petition, made under oath, may be entered by counsel without personal appearance of the person represented by counsel. In a termination of parental rights matter, a written admission by a parent who is a minor or incompetent shall be effective only if the parent's guardian ad litem concurs in writing.

Subd. 3. Questioning of Person Making Admission. Before accepting an admission the court shall determine on the record or by a written document signed by the person admitting and the person's counsel, if represented, whether:

(a) the person admitting acknowledges an understanding of:

- (1) the nature of the statutory grounds set forth in the petition;
- (2) if unrepresented, the right to representation pursuant to Rule 36;
- (3) the right to a trial;
- (4) the right to testify; and
- (5) the right to subpoena witnesses; and

(b) the person admitting acknowledges an understanding that the facts being admitted establish the statutory grounds set forth in the petition.

Subd. 4. Basis for Admission. The court shall refuse to accept an admission unless there is a factual basis for the admission.

(a) **Full Admission.** A party may admit all of the statutory grounds set forth in the petition.

(b) **Partial Admission.** Pursuant to a Rule 19 settlement agreement, a party may admit some, but not all, of the statutory grounds set forth in the petition.

Subd. 5. Withdrawal of Admission. An admission may be withdrawn upon filing a motion with the court:

- (a) before a finding on the petition, for any fair and just reason; or
- (b) at any time, upon a showing that withdrawal is necessary to correct a manifest injustice.

Subd. 6. Acceptance or Non-Acceptance of Admission. At the time of the admission, the court shall make a finding that:

- (a) the admission has been accepted and the statutory grounds admitted have been proved;
- (b) the admission has been conditionally accepted pending the court's approval of a settlement agreement pursuant to Rule 19; or
- (c) the admission has not been accepted.

Subd. 7. Further Proceedings. If the court makes a finding that the admission is accepted and the statutory grounds admitted are proved, or that the admission is conditionally accepted pending the court's approval of a settlement agreement pursuant to Rule 19, the court shall enter an order with respect to adjudication pursuant to Rule 50 and proceed to disposition. If the court makes a

finding that the admission has not been accepted, the court shall schedule further proceedings pursuant to Rule 57 or Rule 58.

2019 Advisory Committee Comment

Rule 56 is added in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. The rule is the counterpart to Rule 47 for permanency and termination of parental rights matters.

Rule 56.03, subdivision 2, provides that the court may only accept a written admission in a termination of parental rights matter from a parent who is a minor or incompetent if the parent's guardian ad litem concurs in writing. This is to be consistent with Minnesota Statutes, section 260C.307, subdivisions 3 and 4, which generally require written agreement by a guardian ad litem when a parent who is a minor or incompetent consents to termination of parental rights.