

## **THIRD JUDICIAL DISTRICT DISTRICTWIDE CONTINUANCE POLICY**

The Third Judicial District recognizes that it is the responsibility of the Court to supervise the progress of each case from filing to disposition, regardless of the type of disposition. The Court is committed to treating its litigants equitably, to the timely disposition of cases and to promoting the public trust and confidence in the Court as a judicious, fair, and well-timed institution. It is imperative that everyone involved in the court system make every effort to work effectively together, respecting each participant's role and respective limitations, all in an effort to maintain the aforementioned public trust in the Court system as a whole.

The Continuance Policy has been developed to ensure that requests for continuances are processed in a time-sensitive and consistent manner throughout the Judicial District, to provide clear expectations to attorneys and litigants that they must be prepared for hearing and avoid unnecessary delays in case processing, to ensure that events scheduled are meaningful and to provide direction to Court staff that are responsible for processing requests for continuances.

The provisions of this policy are not applicable to misdemeanor arraignment hearings.

### **CONTINUANCE POLICY FOR HEARINGS, JURY AND COURT TRIALS POLICY:**

#### **1. Continuance Requests Shall Be In Writing**

##### **a. TRIALS**

Request for continuances must be submitted to Court Administration and all parties in writing no later than twenty-one **(21) days** after notice of a jury or court trial date. If it is the first or initial request for continuance, the request shall be made using the district continuance request form:

<https://tinyurl.com/2zw67kyn>

##### **b. ALL OTHER HEARINGS**

Requests for continuances must be submitted to Court Administration and all parties in writing no later than fourteen **(14) days** after notice of any other hearing date. If it is the first or initial request for continuance, the request shall be made using the district continuance request form:

<https://tinyurl.com/2zw67kyn>

#### **2. Continuance Request Processing**

Court Administrators, or their designees, shall process one continuance request per party within 21 days after notice of a jury or court trial date or one continuance request per party within 14 days after notice of any other hearing date under 1A and 1B. Court Administration may seek guidance or direction from the presiding judge when granting or denying continuance requests. Every action taken shall be recorded in the Court file.

### **3. Continuance Request Format**

All subsequent continuance requests not included in #1A and #1B require judicial approval and shall be made in writing. Parties may use the district's continuance request form: <https://tinyurl.com/2zw67kyn>

Regardless of the format used, all requests for continuance under this paragraph must include the following:

- A. The date notice was given and whether it was given by mail or in court;
- B. The specific/detailed reason for the continuance;
- C. When the need for the continuance was discovered;
- D. Measures taken to avoid the continuance request;
- E. Notice to all parties;
- F. Has there been a speedy demand; and
- G. A statement that indicates:
  - 1. Contact was made with the opposing party before filing the continuance request and whether the opposing party agrees or disagrees with the continuance request; or
  - 2. Contact was attempted but not successful with the opposing party filing the continuance request. Include when and how contact was attempted.
  - 3. Contact was not made with the opposing party before filing the continuance request. Include the specific reason(s) why contact was not made.

NOTE: A joint request that comes before the Court Administrator or presiding judge that contains adequate reason(s) for the needed relief will be given due deference.

### **4. Attorney Conflicts**

In order to avoid unnecessary continuances, all attorneys must have their calendars available in court when future matters are scheduled in open court. Attorneys shall submit their request for continuances in writing as noted in Section 1 above when an unavoidable attorney scheduling conflict does occur.

The following factors shall be considered when making decisions about continuances related to scheduling conflicts:

- a. Priorities determined by statutory or case law or by previous court order;
- b. Priorities determined by nature of the case, e.g., hardship to victims, parties and witnesses, etc.;
- c. Priorities determined by difficulty in scheduling, e.g. interpreter cases and out of state witnesses, etc.;
- d. The date cases were scheduled;
- e. The age of cases and previous continuances.

When there are inter-county or inter-district scheduling conflicts Court Administration is encouraged to contact administration in the conflicting jurisdiction to arrive at an

amicable resolution. When there is no clear delineation of which matter is more of a priority, Court Administration may request that the presiding judge on each case discuss the matter and provide direction to Court Administration.

**5. Trainings**

Trials and evidentiary hearings take priority over officer trainings. Continuance requests due to training conflicts will be considered only when exigent circumstances exist. In the event that there are urgent training needs resulting in a hearing conflict, the prosecutor must submit a letter to the court explaining why an exemption from the continuance policy is warranted and why the training should take priority over the scheduled court matter.

**6. Emergency Continuance Requests**

Parties requesting emergency continuances for illness, unavoidable family crisis, accident, weather, etc., shall, if possible, present their request in written form by fax or email in order to create a record for later review. If unavoidable, requests may be made by phone with a written request to follow. Emergency requests shall contain the information set out in Section Three.

**7. Short Notice Scheduling**

There are instances where notice of appointment of counsel and scheduling of a hearing occurs with very little, e.g. --- less than 48 hours, ---notice to the attorneys. Every effort will be made to avoid scheduling in this manner, except when required by rule or statute. When such short notice scheduling must be done, the Court Administrator shall first attempt to make phone contact with the attorney who is being appointed on the file to verify the appointment and the attorney's availability for the hearing date and time. This phone call will then be followed up by written notice by fax or email.

**8. Aggrieved Parties**

Parties aggrieved after Court Administration has made a determination regarding a continuance request must make a subsequent request in the form of a motion. Motions shall be accompanied by the attorney's or party's affidavit stating a) the information required by Section 3 above, b) any other material information, and c) the reason why the party does not accept Court Administration's determination.

**9. Continuances after Speedy Trial Demanded**

Any continuance request on a case where there has been a demand for a speedy trial shall be made with proper Notice of Motion and Motion and shall require a formal hearing. The written request must be signed by the defendant. The Motion shall be accompanied by the attorney's or party's affidavit stating the information required by Section 3 above.

Revised by the Third Judicial District Judges: July 26, 2019, effective September 1, 2019; language in 3G clarified, effective August 11, 2023.