



FAMILY COURT OF THE STATE OF DELAWARE

CHANDLEE JOHNSON KUHN
CHIEF JUDGE

NEW CASTLE COUNTY COURTHOUSE
500 N. KING STREET, SUITE 9450
WILMINGTON, DELAWARE 19801-3736

INTERNAL POLICY MEMORANDUM NO. 08-002

TO: Family Court Judges
Family Court Commissioners
Family Court Administrative Team
Family Court Administrative Support Staff

FROM: Chief Judge Chandlee Johnson Kuhn /s/

DATE: April 28, 2008

RE: **Juvenile Arbitration**

Pursuant to Family Court Rule of Criminal Procedure 6A, the Court has the authority to refer actions to arbitration upon receipt of the complaint. This policy outlines the criteria and guidelines for the Family Court Arbitration Program.

A. Cases Appropriate for Arbitration Generally:

First Offenders: A juvenile charged with a misdemeanor offense(s) who has no prior record and who has not gone through arbitration previously may be referred to arbitration. A charge that was dismissed by a finder of fact or nolle prossed is not counted as a prior offense. A charge dismissed in arbitration, however, is counted as a prior offense.

B. Cases Excluded from Arbitration:

- (1) Any felony charge.
- (2) Any case where restitution is owed to a private citizen. However, cases where restitution is owed to a business entity, by way of example but not limited to, a corporation, a company, a partnership or sole proprietor, may proceed through arbitration.
- (3) Any graffiti charge.
- (4) Any matter in which the juvenile has any other charges pending in Family Court or any other Court.

(5) The following offenses when classified as a misdemeanor are presumed to be excluded from arbitration. A hearing officer, however, may in his or her discretion determine that such charge is appropriate for arbitration and refer such charge to arbitration on a case-by-case basis in conjunction with the Attorney General's Office and defense counsel. The same charge(s) classified as a felony shall be excluded by subsection (1).

- (a) Misdemeanor contempt of a judicial order or misdemeanor breach of a condition of release.
- (b) A charge of misdemeanor Assault.
- (c) A charge of Terroristic Threatening.
- (d) Any misdemeanor charge constituting a sexual offense, including indecent exposure.
- (e) Any misdemeanor charge involving distribution of a controlled substance.
- (f) Any misdemeanor charge consisting of resisting arrest or escape from law enforcement officials.
- (g) Any motor vehicle violation.

C. Other:

- (1) The presiding Judge/Commissioner has the ability to request that a case be reviewed by the Department of Justice for consideration for Arbitration.
- (2) Under no circumstances will a juvenile be permitted more than one appearance in Arbitration/diversion program including but not limited to the School Diversion Program and Probation Before Judgment.
- (3) No adults will be accepted into Arbitration except those where charges were committed prior to the age of majority.
- (4) If the Court feels a case that has been referred by the AG's Office is not appropriate for arbitration, the Court can request the DAG and the Defendant's attorney present arguments on the record as to why it is appropriate to send to arbitration. The hearing officer will then make the decision as to how the case will proceed.
- (5) Staff shall follow Procedure OCI-906 when processing cases referred to arbitration.