

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF SOCIAL SERVICES

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

WAYNE E. BLACK
DIRECTOR

September 1, 2017

DEAR COUNTY DIRECTORS OF SOCIAL SERVICES

ATTENTION: DSS ATTORNEYS, DIRECTORS, CHILD WELFARE STAFF

SUBJECT: In re A.P., 800 S.E.2d 77 (April 18, 2017)

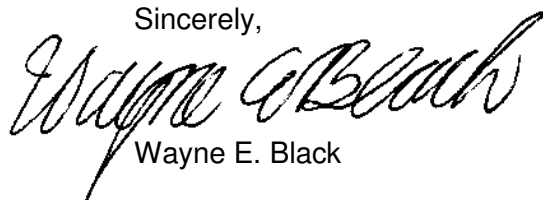
This letter is to inform county child welfare agencies about a Court of Appeals (COA) decision made earlier this year that impacts abuse, neglect, and dependency standing. The COA decision has bearing on which county may file a petition. The court found that the county where the petition is filed must be the county where the child resides or is found, otherwise the court lacks subject matter jurisdiction. The Division recognizes that this currently contradicts policy regarding conflict situations and may present challenges in Temporary Parental Safety Agreement situations.

Currently Mecklenburg DSS has filed a petition for discretionary review to the North Carolina Supreme Court regarding In Re: A.P. The Division is not making policy revisions until there is a final determination of the case. Therefore, the Division is providing the following guidance to counties in the interim:

When there becomes a conflict between the law and part of a policy, the law must be followed. The guiding piece of In re A.P. is that subject matter jurisdiction of a court over a petition is determined by where the child resides or is found. If counties are faced with a conflict and are unsure about who should file a petition, the counties should engage their attorneys. Both counties and attorneys should have a discussion together to arrive at a decision that insures child safety. If both counties with their attorneys cannot arrive at a consensus, both parties may arrange a conference call with the Division through their Children's Program Representative.

If you have questions or need clarification, please contact Teresa Strom, Local Support Team Manager at teresa.strom@dhhs.nc.gov or at (919) 527-6344.

Sincerely,



Wayne E. Black

CWS-28-2017

WWW.NCDHHS.GOV
TEL 919-527-6335 • FAX 919-334-1018
LOCATION: 820 S. BOYLAN AVE. • MCBRYDE BUILDING • RALEIGH, NC 27603
MAILING ADDRESS: 2401 MAIL SERVICE CENTER • RALEIGH, NC 27699-2401
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

