



## **Fifth Judicial District Policy/Procedures**

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<b>Policy Source:</b>	Fifth Judicial District Bench
<b>Category:</b>	Case Management
<b>Title:</b>	Continuance Policy for Hearings, Jury and Court Trials
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<b>Revision Date:</b>	
<b>Contact:</b>	District Administrator

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

#### **I. PURPOSE**

It is the practice of this Court to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Court, the litigants, and other case participants. For all of its case types and dockets, and in all of its courtrooms, the Court looks with strong disfavor on motions or requests to continue court events. To protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

#### **II. APPLICABILITY**

These procedures apply to matters scheduled to appear in any county of the Fifth Judicial District. The provisions of this practice are not applicable to misdemeanor arraignment hearings, Rule 5 hearings, Rule 8 hearings, initial juvenile hearings, and conciliation court hearings which can be processed without judicial review.

#### **III. GENERAL REQUIREMENTS**

Except in unusual circumstances, any continuance motion or request must be in writing. Each continuance motion or request must state reasons and be signed by the attorney or party making the request.

The Court will grant a continuance only for good cause shown. On a case-by-case basis, the Court will evaluate whether sufficient cause justifies a continuance. No request for continuance will be considered if the requesting party has an active warrant.

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

###### **1. TRIALS**

Requests for continuances must be submitted to the Court and all parties.  
Requests for continuances in civil matters must be in compliance with Minn.  
Rule of Gen. Prac. 122.

**2. CONTINUANCES AFTER SPEEDY TRIAL DEMANDED**

Any continuance request on a case where there has been a demand for a speedy trial made by the defendant or juvenile will generally not be granted without the written consent of the defendant or juvenile.

**B. Continuance Request Processing**

All requests for continuances will be reviewed and every action taken shall be recorded in the Court file.

**C. Continuance Request Format**

Continuance requests may be made using the district's continuance request form. Continuance requests may only be made by the attorney of record unless the party is a self-represented litigant. Regardless of the format used, ALL continuance requests shall be in writing and include:

1. The date notice was given and whether it was given by mail or in court;
2. The reason for the continuance;
3. When the need for the continuance was discovered;
4. Measures taken to avoid the continuance request;
5. Notice to all parties; and
6. A statement that indicates:
  - i. Contact was made with the opposing party before filing the continuance request; or
  - ii. Contact was not made with the opposing party before filing the continuance request. Include when and how contact was attempted with the opposing party, and specific reason(s) why contact was not made; and
  - iii. Whether the opposing party agrees or disagrees with the continuance request.

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

**D. 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:

1. Priorities determined by statutory or case law or by previous court order;

2. Priorities determined by nature of the case, e.g., hardship to victims, parties and witnesses;
3. Priorities determined by difficulty in scheduling, e.g. interpreter cases and out of state witnesses, etc.;
4. The date cases were scheduled;
5. The age of cases and previous continuances.

When there are inter-county or inter-district scheduling conflicts, the Court may contact the Court in the conflicting jurisdiction.

**E. 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 practice is warranted and why the training should take priority over the scheduled court matter.

**F. Emergency Continuance Requests**

Parties requesting emergency continuances for illness, unavoidable family crisis, accident, weather, etc., shall, if possible, present their request in written form. If unavoidable, requests may be made by phone or email to court administrator/court reporter with a written request to follow. Emergency requests shall contain the information set out in Section C.

**G. 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.

**H. Aggrieved Parties**

Parties aggrieved after the Court 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 1) the information required by Section C above, 2) any other material information, 3) the reason why the party does not accept the Court's determination and 4) any applicable filing fee.

**IV. REVISION HISTORY**

- September 27, 2018 – Fifth Judicial District Continuance Practice originally adopted and approved