

Bureau of Indian Affairs, Interior

§ 11.1012

the petition, the petition shall be dismissed and cannot be filed again, unless;

(a) The hearing is continued upon motion of the minor; or

(b) The hearing is continued upon motion of the presenting officer by reason of the unavailability of material evidence or witnesses and the children's court finds the presenting officer has exercised due diligence to obtain the material evidence or witnesses and reasonable grounds exist to believe that the material evidence or witnesses will become available.

§ 11.1009 Summons.

(a) At least five working days prior to the adjudicatory hearing, the children's court shall issue summons to:

(1) The minor;

(2) The minor's parents, guardian or custodian; and

(3) Any person the children's court or the minor believes necessary for the adjudication of the hearing.

(b) The summons shall contain the name of the court, the title of the proceedings, and the date, time and place of the hearing.

(c) A copy of the petition shall be attached to the summons.

(d) The summons shall be delivered personally by a law enforcement officer or appointee of the children's court. If the summons cannot be delivered personally, the court may deliver it by certified mail.

§ 11.1010 Adjudicatory hearing.

(a) The children's court shall conduct the adjudicatory hearing for the sole purpose of determining the guilt or innocence of the minor. The hearing shall be private and closed.

(b) All the rights listed in §11.906 shall be afforded the parties at the adjudicatory hearing. The notice requirements of §11.906(a) are met by a summons issued pursuant to §11.1009.

(c) If the minor admits the allegations of the petition, the children's court shall proceed to the dispositional stage only if the children's court finds that:

(1) The minor fully understands his or her rights as set forth in §11.906 of this part and fully understands the po-

tential consequences of admitting the allegations;

(2) The minor voluntarily, intelligently and knowingly admits to all facts necessary to constitute a basis for children's court action; and

(3) The minor has not, in the purported admission to the allegations, set forth facts which, if found to be true, constitute a defense to the allegations.

(d) The children's court shall hear testimony concerning the circumstances which gave rise to the complaint.

(e) If the allegations of the petition are sustained by proof beyond a reasonable doubt, the children's court shall find the minor to be a juvenile offender and proceed to the dispositional hearing.

(f) A finding that a minor is a juvenile offender constitutes a final order for purposes of appeal.

§ 11.1011 Dispositional hearing.

(a) A dispositional hearing shall take place not more than 15 days after the adjudicatory hearing.

(b) At the dispositional hearing, the children's court shall hear evidence on the question of proper disposition.

(c) All the rights listed in §11.906 shall be afforded the parties in the dispositional hearing.

(d) At the dispositional hearing, the children's court shall consider any pre-disposition report, physician's report or social study it may have ordered and afford the parents an opportunity to controvert the factual contents and conclusions of the reports. The children's court shall also consider the alternative predisposition report prepared by the minor and his or her attorney, if any.

(e) The dispositional order constitutes a final order for purposes of appeal.

§ 11.1012 Dispositional alternatives.

(a) If a minor has been adjudged a juvenile offender, the children's court may make the following disposition:

(1) Place the minor on probation subject to conditions set by the children's court;

(2) Place the minor in an agency or institution designated by the children's court; or