

## 12.4 Conduct of the Hearing on an Admission

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### A. Entering an Admission

After preliminary matters are concluded the court must inquire of the juvenile whether the allegations in the petition are “admitted” or “denied.” *In re Wilson*, 153 N.C. App. 196, 197 (2002), citing G.S. 7B-2407, 7B-2408 (proper inquiry by court is whether the juvenile “admits” or “denies” the allegations, and juvenile’s counsel should respond in kind; use of terms “responsible” or “not responsible” is not correct).

Counsel should ensure that the hearing is on the record. This will allow appellate review of the procedures that resulted in the admission.

### B. Admission by Juvenile

**Court must personally address juvenile.** Before an admission may be accepted, the judge must personally inform the juvenile of statutory rights and determine whether the juvenile understands the consequences of an admission. G.S. 7B-2407(a). Specifically, the judge must:

- inform the juvenile of the right to remain silent and that any statement the juvenile makes may be used against the juvenile;
- determine that the juvenile understands the nature of the charge;
- inform the juvenile of the right to deny the allegations;
- inform the juvenile that by making an admission the right to confront witnesses is waived;
- determine that the juvenile is satisfied with the juvenile’s representation; and
- inform the juvenile of the most restrictive disposition on the charge.

G.S. 7B-2407(a)(1)–(6).

The language of G.S. 7B-2407(a) is mandatory, and the failure of the court to address any one of these statutory provisions with the juvenile constitutes reversible error. *In re T.E.F.*, 359 N.C. 570, 575-76 (2005). A signed transcript of admission will not cure an insufficient colloquy with the juvenile that omits the required inquiries. *In re A.W.*, 182 N.C. App. 159, 162 (2007). If the court imposes a disposition that exceeds the disposition described in the transcript of admission or the court’s colloquy with the juvenile, the juvenile must be given an opportunity to withdraw the admission. *In re D.A.F.*, 179 N.C. App. 832, 837 (2006); *In re W.H.*, 166 N.C. App. 643, 647 (2004).

**Discussions about admission.** The court must determine that the admission is the result of an informed choice by the juvenile before accepting an admission. This determination must be based on inquiries by the court of the prosecutor, the juvenile’s attorney, and the juvenile as to whether there were prior discussions regarding the terms of the admission and whether there was any improper pressure on the juvenile to admit. G.S. 7B-2407(b).

**Factual basis for admission.** An admission may be accepted by the court only if the judge determines that there is a factual basis for the admission. The court may base this decision on any of the following:

- a statement of the facts from the prosecutor;
- a written statement of the juvenile;
- sworn testimony, which may contain reliable hearsay; or
- a statement of facts by the juvenile’s attorney.

G.S. 7B-2407(c).

The statute does not recognize other sources for a factual basis. In *In re D.C.*, 191 N.C. App. 246, 248 (2008), the Court of Appeals held that G.S. 7B-2407(c) “does not provide that a juvenile petition may serve as information for determining that there is a factual basis for admitting a juvenile’s plea.” Based on the limited number of sources described in G.S. 7B-2407(c) and the Court’s strict interpretation of the statute in *In re D.C.*, it seems unlikely that a mere transcript of admission or stipulation to the existence of a factual basis, without supporting information from at least one of the above sources, would be sufficient to establish the factual basis for an admission.

If the prosecutor provides a statement of the facts, counsel should request an opportunity to supplement the statement with mitigating or conflicting information as appropriate. Counsel should ask to question witnesses if they might provide helpful information. Caution must be exercised by counsel in providing facts or asking additional questions, however, to avoid presenting or eliciting information that may be harmful to the juvenile.

**Transcript of admission by juvenile.** Counsel should always submit to the court a “Transcript of Admission by Juvenile,” filled out by the juvenile, juvenile’s counsel, and the prosecutor. See [Form AOC-J-410](#) (Transcript of Admission by Juvenile) (Mar. 2012). This will confirm any negotiations and protect the record on appeal. Although judges in some districts do not require written transcripts of admissions for misdemeanors, counsel should insist that they be completed and filed.

The transcript form includes the information that the judge is required to address personally with the juvenile pursuant to G.S. 7B-2407. Completion and entry of the Transcript of Admission into evidence does not fulfill the court’s statutory duties if the court does not, in fact, address the juvenile personally regarding the matters on the form. *In re A.W.*, 182 N.C. App. 159, 162 (2007).

Counsel should review the transcript of admission with the juvenile and assist the juvenile in completing the form. An admission should not be entered if the juvenile does not understand what is being admitted and the possible consequences thereof. A juvenile's inability to understand the information in the transcript may indicate the need for counsel to move for an evaluation of capacity to proceed. *See supra* § 7.5, Standard for Capacity to Proceed to Adjudication. Counsel should make a copy of the transcript to review with the juvenile as the judge is reciting the questions.

***Alford Admission.*** In *North Carolina v. Alford*, 400 U.S. 25 (1970), the U.S. Supreme Court held that a defendant may enter a guilty plea while maintaining innocence. The trial court may accept the plea as long as the defendant enters the plea knowingly, voluntarily, and intelligently. *State v. McClure*, 280 N.C. 288, 294 (1972). A conviction based on an *Alford* plea carries the consequences of a conviction based on a guilty plea. *State v. Alston*, 139 N.C. App. 787, 793 (2000).

In *In re C.L.*, 217 N.C. App. 109 (2011), the Court of Appeals upheld an *Alford* admission in a juvenile delinquency case. The juvenile did not challenge the validity of the *Alford* admission and argued instead that the trial court failed to ensure that he understood he would be treated as guilty based on his *Alford* admission. Applying a totality of circumstances test, the court found that the juvenile's admission was entered knowingly, voluntary, and intelligently. *Id.* at 116. The juvenile did not argue that the trial court failed to comply with the colloquy requirements in G.S. 7B-2407 for the taking of an admission; the Court of Appeals therefore declined to apply the "strict compliance" test articulated in *In re T.E.F.*, 359 N.C. 570 (2005), for the taking of admissions.

If the juvenile intends to enter an *Alford* admission as part of a negotiated arrangement, counsel should obtain the prosecutor's consent to avoid withdrawal of the arrangement if the prosecutor is dissatisfied with the juvenile's unwillingness to admit responsibility.