

1 **Rule 110. Judicial interview of a minor child.**

2 (a) **Scope.**

3 (1) This rule applies to district court proceedings in which the court is permitted to
4 interview a minor child who is the subject of the proceeding.

5 (2) This rule does not apply to:

6 (A) testimony by a child; or

7 (B) an interview conducted by a person other than a judge or commissioner.

8 (b) **Decision to conduct judicial interview.**

9 (1) Unless prohibited by law, a child, the child's attorney guardian ad litem, or a party
10 may request that the court interview the child. Subject to paragraph (b)(2), the
11 decision to conduct the interview is within the court's discretion and may be made at
12 the court's own initiative.

13 (2) The court may conduct the interview if it determines:

14 (A) extenuating circumstances necessitate the interview;

15 (B) there is no other reasonable method to obtain information from the child;

16 (C) the interview is in the child's best interest; and

17 (D) any other legal requirements are satisfied.

18 (3) Except as provided by other law, in deciding whether an interview is in the child's
19 best interest, the court will consider the child's expressed desire to communicate or
20 not communicate with the court and, to the extent applicable and readily
21 ascertainable:

22 (A) the likelihood that the interview will assist the court in adjudicating the
23 proceeding;

24 (B) the child's age, maturity, and capacity to formulate and communicate the
25 child's views to the court;

(C) the likely benefit to the child from the interview;

(D) the potential harm to the child from the interview, including embarrassment, harassment, retaliation, and breach of a relationship, as well as the court's ability to mitigate harm while eliciting the child's views;

(E) the availability and suitability of other processes to elicit the child's views;

(F) the likelihood that conducting the interview will facilitate recognition or enforcement in another state or foreign court of the decision in the covered proceeding; and

(G) any other relevant factor.

(4) A judge or commissioner who conducts a judicial interview first will have completed any training required by the Judicial Council in interviewing a child.

(c) Judicial interview procedure.

(1) The court will permit a party and attorney guardian ad litem to propose questions for the judicial interview. The court will determine which questions to ask.

(2) The court will record the interview.

(3) The court will permit the attorney guardian ad litem to attend the judicial interview in person.

(4) The court will not permit a party or a party's attorney to attend the judicial interview except in extraordinary circumstances when necessary to prevent manifest injustice.

(5) The parties may stipulate that they waive access to the interview record. A stipulation is not valid unless approved by the court. The court may not approve a stipulation unless each party stipulates that the party waives any right to access the interview record, be informed of communication by the child during the interview, and respond to the child's communication. Unless otherwise stated in the stipulation,

a stipulation under this section precludes access to the interview record by the parties in any proceeding relating to the child, including on appeal.

(6) Before starting the interview, the court will explain to the child in an age-appropriate manner information about the judicial interview, including:

(A) that the child is not required to answer the court's questions;

(B) that the child's views will be considered but the court is the decision-maker;

(C) that the court will record the interview;

(D) whether any individual will be observing or listening to the judicial interview in real time;

(E) whether the interview record will be provided to the parties; and

(F) that the court may be required in some circumstances to share with another person the child's communication.

(d) Post-interview procedure.

(1) Unless prohibited by a stipulation approved under paragraph (c) and except as provided under paragraph (d), if a party appeals the final decision in the proceeding, on request of a party and after payment of required costs, the court will grant access to the interview record.

(2) Unless prohibited by a stipulation approved under paragraph (c), if the child makes a factual allegation in the judicial interview, other than communication of the child's views, that is or may be contested and is potentially dispositive in the covered proceeding, the court will disclose the allegation to the parties and provide the parties an opportunity to submit evidence and legal argument in response before making a final decision.

(3) The court will restrict the disclosure of the contents of the interview and the interview record to nonparties during the covered proceeding and after its conclusion.

77 Rule 110 was adapted from a uniform rule on interviewing children. Because the
78 language of the uniform rule was modified to comport with Utah statutes, interpretation
79 of the rule as adopted in other states will not be authoritative as applied to the Utah rule.

80 *Effective Date:*