Rule 47. Reviews and modification of orders.

(a) Reviews.

(1) At the time of disposition in any case wherein a minor is placed on probation, under protective supervision or in the legal custody of an individual or agency, the court shall also order that the individual supervising the youth or the placement, submit a written report to the court at a future date and appear personally, if directed by the court, for the purpose of a court review of the case. If a date certain is not scheduled at the time of disposition, notice by mail of such review shall be given by the petitioner, if the review is a mandatory review, or by the party requesting the review to the supervising agency not less than 5 days prior to the review. Such notice shall also be given to the guardian ad litem, if one was appointed.

(2) No modification of a prior dispositional order shall be made at a report review that would have the effect of further restricting the rights of the parent, guardian, custodian or minor, unless the affected parent, guardian custodian or minor waives the right to a hearing and stipulates in open court or in writing to the modification. If a guardian ad litem is representing the minor, the court shall give a copy of the report to the guardian prior to the report review.

(b) Review hearings.

(1) Any party in a case subject to review may request a review hearing. The request must be in writing and the request shall set forth the facts believed by the requesting party to warrant a review by the court. If the court determines that the alleged facts, if true, would justify a modification of the dispositional order, a review hearing shall be scheduled with notice, including a copy of the request, to all other parties. The court may schedule a review hearing on its own motion.

(2) The court may modify a prior dispositional order in a review hearing upon the stipulation of all parties and upon a finding by the court that such modification would not be contrary to the best interest of the minor and the public.

(3) The court shall not modify a prior order in a review hearing that would further restrict the rights of the parent, guardian, custodian or minor if the modification is objected to by any party prior to or in the review hearing. The court shall schedule the case for an evidentiary hearing and require that a motion for modification be filed with notice to all parties in accordance with Section 78-3a-903.

(4) Any individual, agency or institution vested with temporary legal custody or guardianship must make a motion for a review hearing at the expiration of 18 months from the date of the placement order as provided in Utah Code Ann. §78-3a-516.

(5) All cases which require periodic review hearings under Title 78, Chapter 3a shall be scheduled for court review not less than once every six months from the date of disposition.

(c) Disposition reviews. Upon the petition of any agency, individual or institution vested with legal custody or guardianship by prior court order, the court shall conduct a review hearing to determine if the prior order should remain in effect. Notice of the hearing, along with a copy of the petition, must be provided to all parties not less than 5 days prior to the hearing.

(d) Review of a case involving abuse, neglect, or dependency of a minor shall be conducted also in accordance with Section 78-3a-118, Section 78-3a-312, and Section 78-3a-313.

(e) Intervention plans.

(1) In all cases where the disposition order places temporary legal custody or guardianship of the youth with an individual, agency, or institution, a proposed intervention plan shall be submitted by the probation department when probation has been ordered; by the agency having custody or guardianship; or by the agency providing protective supervision, within 30 days following the date of disposition. This intervention plan shall be updated whenever a substantial change in conditions or circumstances arise.

(2) In cases where both parents have been permanently deprived of parental rights, the intervention plan shall identify efforts made by the child placing agency to secure the adoption of the youth and subsequent review hearings held until the youth has been adopted or permanently placed.

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(f) Progress reports.

(1) A written progress report relating to the intervention plan shall be submitted to the court and all parties by the agency, which prepared the intervention plan at least two working days prior to the review hearing date.

(2) The progress report shall contain the following:

(i) A review of the original conditions, which invoked the court's jurisdiction.

(ii) Any significant changes in these conditions.

(iii) The number and types of contacts made with each family member or other person related to the case.

(iv) A statement of progress toward resolving the problems identified in the intervention plan.

(v) A report on the family's cooperation in resolving the problems.

(vi) A recommendation for further order by the court.

(g). In substantiation proceedings, a party may file a motion to set aside a default judgment or dismissal of a substantiation petition for failure to appear, within thirty days after the entry of the default judgment or dismissal. On motion and upon such terms as are just, the court may in the furtherance of justice relieve a party from a default judgment or dismissal if the court finds good cause for the party's failure to appear. The filing of a motion under this Subdivision does not affect the finality of a judgment or suspend its operation.

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Rule 53. Appearance and withdrawal of counsel.

(a) Appearance. An attorney shall appear in proceedings by filing a written notice of appearance with the court or by appearing personally at a court hearing and advising the court that he is representing a party. Once an attorney has entered an appearance in a proceeding, the attorney shall receive copies of all notices served on the parties.

(b) Withdrawal.

(b)(1) Retained Counsel. Consistent with the Rules of Professional Conduct, a retained attorney may withdraw as counsel of record unless withdrawal may result in a delay of trial or unless a final appealable order has been entered. In such circumstances, a retained attorney may not withdraw except upon written motion and approval of the court.

(b)(2) Court-appointed counsel. Court-appointed counsel may not withdraw as counsel of record except upon motion and signed order of the court. If the court grants appointed counsel's motion to withdraw, the court shall promptly appoint new counsel.

(b)(3) If a motion to withdraw is filed after entry by the court of a final appealable judgment, order, or decree, the motion may not be granted unless counsel, whether retained or court-appointed, certifies in a written statement: (a) that the represented party in a delinquency proceeding has been advised of the availability of a motion for new trial or ~~a certificate of probable cause~~ motion for stay pending appeal and that, if appropriate, the same has been filed; and (b) that the represented party has been advised of the right to appeal and that, if appropriate, a Notice of Appeal and a Request for Transcript have been filed.

(b)(4) When an attorney withdraws as counsel of record, written notice of the withdrawal must be served upon the client of the withdrawing attorney by first class mail, to his or her last known address and upon all other parties not in default and a certificate of service must be filed with the court. If a trial date has been set, the notice of withdrawal served upon the client shall include a notification of the trial date.

(b)(5) A guardian ad litem may not withdraw except upon ~~written motion and~~ approval of the court.

Rule 44. Findings and conclusions.

(a) If, upon the conclusion of an adjudicatory hearing, the court determines that the material allegations of the petition are established, it shall announce its ruling. The findings of fact upon which it bases its determination may also be announced or reserved for entry by the court in an order as provided in these Rules. In cases concerning any minor who has violated any federal, state, or local law or municipal ordinance, or any person under 21 years of age who has violated any such law or ordinance before becoming 18 years of age, findings of fact shall not be necessary. If, after such a determination, the dispositional hearing is not held immediately and the minor is in detention or shelter care, the court shall determine whether the minor shall be released or continued in detention, shelter care or the least restrictive alternative available.

(b) In certification proceedings and permanent deprivation cases, the court shall enter findings of fact and conclusions of law with specific reference to each statutory requirement considered, setting forth the complete basis for its determination. Such findings and conclusions may be prepared by counsel at the direction of the court, but shall be reviewed and modified as deemed appropriate by the court prior to ~~entry~~ the court's acceptance and signing of the documents ~~entered~~ by counsel.
submitted.

(c) The court may at any time during or at the conclusion of any hearing, dismiss a petition and terminate the proceedings relating to the minor if such action is in the interest of justice and the welfare of the minor. The court shall dismiss any petition which has not been proven.

(d) After the dispositional hearing, the court shall enter an appropriate order or decree of disposition.

(e) Adjudication of a petition alleging abuse, neglect, or dependency of a minor shall be conducted also in accordance with § 78-3a-308 and § 78-3a-309.

(f) Adjudication of a petition to review the removal of a child from foster care shall be conducted also in accordance with § 78-3a-315.

Rule 46. Disposition hearing.

(a) Disposition hearings may be separate from the hearing at which the petition is proved or may follow immediately after that portion of the hearing at which the allegations of the petition are proved. Disposition hearings shall be conducted in an informal manner to facilitate the opportunity for all participants to be heard.

(b) The court may receive any information that is relevant to the disposition of the case including reliable hearsay and opinions. Counsel for the parties are entitled to examine under oath the person who prepared the pre-disposition report if such person is reasonably available. The parties are entitled to compulsory process for the appearance of any person, including character witnesses, to testify at the hearing. A minor's parent or guardian may address the court regarding the disposition of the case, and may address other issues with the permission of the court.

(c) After the disposition hearing, the court shall enter an appropriate order. After announcing its order, the court shall advise any party who is present and not represented by counsel of the right to appeal the court's decision.

(d) The disposition order made and entered by the court shall be reduced to writing and a copy mailed or furnished to the minor and parent, guardian or custodian, or counsel for the minor and parent, guardian or custodian, if any, the prosecuting attorney, the guardian ad litem, and any agency or person affected by the court's order. The disposition order may be prepared by counsel at the direction of the court, but shall be reviewed and modified as deemed appropriate by the court prior to the court's acceptance and signing ~~of entry~~ of submission.

(e) Disposition of a petition alleging abuse, neglect, or dependency of a minor shall be conducted also in accordance with Section 78-3a-118, Section 78-3a-310, and Section 78-3a-311.

Administrative Office of the Courts

Fax Transmittal Sheet

3rd Floor
450 South State
P.O. Box 140241
Salt Lake City, UT 84114-0241
Phone: 801-578-3800
Fax: 801-238-7828

To: Carol Verdoia

Date: 6-15-04

Fax Number: 366-0333

From: Alicia Davis

Number of Pages: 1 2 3 4 5 6 7 8
(including cover)

Comments:

If you have received this fax in error, please contact us at the above number or if you have not received all pages indicated.

URAP comments : pages 1-3

Board Minutes & URJP 9 : pages 4-7

See email & call me.
Thanks! Alicia

From: Alicia Davis
To: Carol Verdoia
Subject: URJP and CW Exp App

Carol:

I hope you were away on a relaxing and enjoyable vacation?

As you probably know, I'm leaving the Courts as of June 30 to start up the Office of CW Parental Defense. There are a few loose ends with URJP.

1) Staffing. Hopefully they will have someone in by the Aug. 6 mtg.

2) Sept approval of rules out for comment.
There were no comments to the URJP rules out for comment (URJP 44, URJP 45, URJP 50, URJP 54)

As for the URAP rules, there were comments I just found out. Brent is taking them to the URAP Committee for vote/approval via email. I'm right now faxing you those comments. Call Brent by next week if you have any concerns with the comments. I'll ask Brent to keep you up on any proposed changes though I doubt there will be any. I'll also let him know to contact you when he goes to the S Ct for final approval.

3) August Agenda
See faxed Board minutes and URJP 9. The Board asks URJP to re-evaluate URJP 9 because it is thought that some districts comply with this rule, some don't. This may well be judicial training and not a need for amendments.

Let's talk when you get a chance. - Alicia

From: Alicia Davis
To: Jeanette Gibbons
Date: 4/8/04 2:58PM
Subject: Re: Child Welfare Appeals

Jeanette -

I am forwarding your comments on to the URAP committee (Brent). As for #3, that's a good point... we should probably strike the word "legal" because the whole file, legal and social, goes up.

As for #2, we recently developed a form request for transcripts and we'll post it on the website.

Thanks for your comments, I look forward to presenting with you next week. - Alicia

>>> Jeanette Gibbons 04/02/04 01:16PM >>>
Alicia I had a few either questions or suggestions on this.
1. On proposed rules under Rule 52 (a) just suggest adding the words "with the Juvenile Court" so that the person know that the notice of appeal needs to be filed in the J.C. Sometimes attorneys have filed directly to the Court of Appeals and that delays it another few days.
2. On proposed rules under Rule 54 (a) do we need a form for request for transcripts? There were just forms for the other things.
3. On proposed rules under Rule 57 another question. it indicates the record shall include the legal file. In child welfare cases there is sometimes a social file too, the social file would have things like psychological evals; letters from counselors, those kinds of things, and in the past I had been instructed to forward them also. Should the word "social file" be included or do we no longer need to include that?
4. Same section, second paragraph suggest adding the words "or upon request from the Court of Appeals" Maybe it doesn't need to be there, but we do get requests to send the record before the transcript is ready from time to time.
Thanks for sharing those forms and info with me. jag

CC: Brent Johnson

Rules - Comments

Comments: Rules of Appellate Procedure

There is a significant problem with regard to the manner in which cases are transferred from the Supreme Court to the Court of Appeals. This problem has not been addressed in the current amendments, and it should be addressed.

Formerly, cases were not reassigned to the Court of Appeals until after the parties' docketing statements were filed. This gave the parties an opportunity, pursuant to Rule 9(c)(9), to make recommendations to the Court concerning whether such a transfer was appropriate. Recently, however, the Supreme Court began a new practice of making its determination re transfer without waiting for the docketing statements to be filed. This means, in effect, that parties no longer have any input into the decision at all, because under Rule 42(f), transfers to the Court of Appeals are FINAL except for questions of jurisdiction, which can never arise in the case of a transfer because the court of appeals has jurisdiction over "all" cases which are transferred by the Supreme Court. Either (1) the Supreme Court should revert to its former policy of not tranferring cases until the docketing statements have been filed; or (2) Rule 42(f) should be modified to give the parties the right to object to the transfer for "good cause," which ought to be seen as any of the reasons set forth in Rule 9 militating against transfer.

Posted by Thomas Thompson April 14, 2004 03:24 PM

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Posted by Thomas Thompson April 14, 2004 03:24 PM

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□`□□□□□□□□□□□□□□□□□□□□□□□°□Ð□□ÐComment on Child Welfare Appeal rule 55:

Rule 55 (b) says trial counsel may be relieved of the obligation to prepare a petition on appeal only on a showing of "extraordinary circumstances." That term is not explained, other than to indicate claims of ineffective assistance of counsel do not qualify, and, indeed, should be raised by the very trial counsel whose assistance was ineffective.

I am concerned about several aspects of this. First, it is not realistic, given human nature and the disciplinary implications of some kinds of ineffective assistance, to expect trial counsel to raise his or her own ineffectiveness. At a minimum, the rule should be changed to provide some wiggle room here, such as by saying that including ineffective assistance of counsel claims does not automatically (or "ordinarily" or "necessarily") qualify as an extraordinary circumstance.

Second, the rule gives a single example of what is NOT an extraordinary circumstance. Why not include others? As written, a trial judge has no discretion to conclude that raising an ineffective assistance claim ever qualifies, but could find that lack of appellate experience, workload, or vacation plans constitute an extraordinary circumstance. If the rule is going to limit trial court discretion to find an extraordinary circumstance, it should do so in a more comprehensive way. Conversely, if the rule is going to offer guidance on what is meant, it might be helpful to include examples of what would qualify--e.g., conflict of interest, retirement from practice of law, debilitating illness, active military duty.

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1) WRTP
2) Subcommittee (L.M.)

DRAFT

BOARD OF JUVENILE COURT JUDGES MEETING MINUTES

Richfield Courthouse
895 East 300 North
Richfield, Utah

May 14, 2004

Hon. Paul Lyman, Presiding

MEMBERS PRESENT:	AOC STAFF:	GUESTS:
Judge Kent Bachman	Ray Wahl	Judge Scott Johansen
Judge Kimberly Hornak	Ron Oldroyd	Bruce Thomas
Judge Larry Jones	Amber Holyoak	Kathy Elton
Judge Paul Lyman	Dan Becker	Brian Nelson
Judge Mary Noonan		
Judge Sterling Sainsbury		
Judge Robert Yeates		

1. **WELCOME/ APPROVAL OF MINUTES** (Judge Lyman)

Judge Lyman called the meeting to order and welcomed everyone to Richfield. He then asked for an approval of Board and Bench Minutes from April 21, 2004 and April 23, 2004. The following motion was made.

MOTION: Judge Bachman moved to approve both the Board and Bench minutes as written. Judge Yeates seconded the motion. The motion passed unanimously.

2. **TRUANCY/VICTIM OFFENDER MEDIATION** (Kathy Elton)

Kathy Elton addressed the Board to describe the impact of cutting truancy and victim offender mediation to fund another child welfare mediator, as decided by the Board at their last meeting. She expressed her support of the Program Based Budgeting process, but wanted to let the Board know the impact of their decision. She distributed a handout which outlined the impact of eliminating these programs, the benefits of each program,

Eighth district led in this category.

Overall the Juvenile Court dropped 9 days from last year in average days from filing to final disposition. Last year the average was 62 days. In 2003 the average dropped to 52, with child welfare cases being a substantial contributor to this drop. The case management workshops, and local Tables of Six can be commended on this improved statistic.

The percent of fines, fees, restitution and work hours ordered and collected decreased slightly from last year falling from 95% to 92%. It was discussed that this is still a great collection rate. It was also noted that these rates seem to fluctuate with the health of the economy.

The Judicial Weighted Caseload numbers were then reviewed. It was noted that the workload numbers were based on the 2002 workload formula. The formula is currently in the process of being revised with regard to the average work day. Districts 2, 3, 4, 5, and 8 are over 100% of the standard. Districts that have judges hearing District and Juvenile Court cases are not reflected in these statistics. Whether the statistics counted active, inactive, or judges appointed mid-year was also unknown. It was mentioned that judges hearing cases outside their district are credited to the district the judge is from.

The Board requested hard copies of the presentation, and Brian Nelson agreed to provide the presentation to them.

6. **7-DAY REVIEW HEARINGS** (Judge Bachman)

This item was carried over from the last meeting and addressed a concern raised by Youth Corrections about districts that are failing to conduct 7-day review hearings for kids in detention as required by Rule. The Rule was provided in the Board packet. The Board reported that some districts are doing file reviews, some are doing face-to-face reviews, some stipulate to waive the 7-day review hearing, and in others they are not conducting them at all. In Districts that not conducting them they report the reason is because of the 5-day arraignment rule.

The Board then discussed possible solutions to this problem, which included: doing away with the rule, adding a new rule for 7-day reviews on inter-district transfers only, and striking the need for 7-day reviews on in-home detention. A full review of all rules was also proposed because many are outdated.

It was decided that staff (Tim or Alicia) would be asked to draft a change to address the 7-day review rule problem, and the proposal to review all rules will be tabled for the next agenda to discuss.

7. **MANDATORY RETIREMENT AGE OF SENIOR JUDGES** (Judge Lyman)

Rule 9. Detention hearings; scheduling; hearing procedure.

(a) The officer in charge of the detention facility shall provide to the court a copy of the report required by Section 78-3a-113. At a detention hearing, the court shall order the release of the minor to the parent, guardian or custodian unless there is reason to believe:

(1) the minor will abscond or be taken from the jurisdiction of the court unless detained;

(2) the offense alleged to have been committed would be a felony if committed by an adult;

(3) the minor's parent, guardian or custodian cannot be located;

(4) the minor's parent, guardian or custodian refuses to accept custody of the minor;

(5) the minor's parent, guardian or custodian will not produce the minor before the court at an appointed time;

(6) the minor will undertake witness intimidation;

(7) the minor's past record indicates the minor may be a threat to the public safety;

(8) the minor has problems of conduct or behavior so serious or the family relationships are so strained that the minor is likely to be involved in further delinquency; or

(9) the minor has failed to appear for a court hearing within the past twelve months.

(b) The court shall hold a detention hearing within 48 hours of the minor's admission to detention, weekends and holidays excluded. The officer in charge of the detention facility shall notify the minor, parent, guardian or custodian and attorney of the date, time, place and manner of such hearing.

(c) The court may at any time order the release of a minor whether a detention hearing is held or not.

(d) At the beginning of the detention hearing, the court shall advise all persons present as to the reasons or allegations giving rise to the minor's admission to detention and the limited scope and purpose of the hearing as set forth in paragraph (g). If the minor is to be arraigned at the detention hearing, the provisions of Rules 24 and 26 shall apply.

(e) The court may receive any information, including hearsay and opinion, that is relevant to the decision whether to detain or release the minor. Privileged communications may be introduced only in accordance with the Utah Rules of Evidence.

(f) A detention hearing may be held without the presence of the minor's parent, guardian or custodian if they fail to appear after receiving notice. The court may delay the hearing for up to 48

hours to permit the parent, guardian or custodian to be present or may proceed subject to the rights of the parent, guardian or custodian. The court may appoint counsel for the minor with or without the minor's request.

(g) If the court determines that no reasonable basis exists for the offense or condition alleged as required in Rule 6 as a basis for admission, it shall order the minor released immediately without restrictions. If the court determines that reasonable cause exists for continued detention, it may order continued detention, place the minor on home detention, or order the minor's release upon compliance with certain conditions pending further proceedings. Such conditions may include:

(1) a requirement that the minor remain in the physical care and custody of a parent, guardian, custodian or other suitable person;

(2) a restriction on the minor's travel, associations or residence during the period of the minor's release; and

(3) other requirements deemed reasonably necessary and consistent with the criteria for detaining the minor.

(h) If the court determines that a reasonable basis exists as to the offense or condition alleged as a basis for the minor's admission to detention but that the minor can be safely left in the care and custody of the parent, guardian or custodian present at the hearing, it may order release of the minor upon the promise of the minor and the parent, guardian or custodian to return to court for further proceedings when notified.

(i) If the court determines that the offense is one governed by Section 78-3a-601, Section 78-3a-602, or Section 78-3a-603, the court may by issuance of a warrant of arrest order the minor committed to the county jail in accordance with Section 62A-7-201.

(j) Any predisposition order of detention or home detention shall be reviewed by the court once every seven days. The court may, on its own motion or on the motion of any party, schedule a detention review hearing at any time.

arraignments in 5 days: 3rd district.

Chief Justice Christine Durham
Chairperson, Judicial Council

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

MEMORANDUM

To: All Supreme Court Justices
From: Alicia Davis, Staff, Supreme Court's Advisory Committee to the URJP
Date: June 24, 2004
Re: Final Approval November 2004 Rules: URJP 44, 45, 46, 53

Having received no comments, the Supreme Court's Advisory Committee to the Rules of Juvenile Procedure recommends these rules for final approval:

URJP 44, Findings and conclusions; URJP 46, Disposition hearing
The language of URJP 44 and URJP 46 was amended slightly to allow for technological advances. It is proposed that some day attorneys will be able to enter proposed orders directly into CARE rather than submitting them as paper documents that clerks must then re-type into the court's database. The judge would instead receive and review counsel's electronic proposed order, make any modifications, then sign the final order. The proposed amendments do not require electronic entry of documents, but the wording makes it possible.

URJP 45, Pre disposition reports and social studies.
The committee had recommended amendments to URJP 45 in the last cycle as part of the reorganization of the Code of Judicial Administration. In giving final approval for the rule, Justice Wilkins recommended that language be clarified as to who would provide the dispositional report. In discussion, the committee realized that it could be any agency submitting the report, depending on who prepared the report. The committee decided that 45(e) should read: that the dispositional report "shall be provided by the author to minor's counsel."

URJP 53, Appearance and Withdrawal of Counsel
This rule was amended last year to assist in expediting child welfare appeals. Along with SB, Expedited Child Welfare Appeals, additional rule amendments were necessary to clarify how counsel could move to withdraw from a case. In the process of amending the rule, guardian *ad litem* Brent Bartholomew asked that a guardian be able to withdraw upon verbal or written motion and approval of the court.

Rule 44. Findings and conclusions.

(a) If, upon the conclusion of an adjudicatory hearing, the court determines that the material allegations of the petition are established, it shall announce its ruling. The findings of fact upon which it bases its determination may also be announced or reserved for entry by the court in an order as provided in these Rules. In cases concerning any minor who has violated any federal, state, or local law or municipal ordinance, or any person under 21 years of age who has violated any such law or ordinance before becoming 18 years of age, findings of fact shall not be necessary. If, after such a determination, the dispositional hearing is not held immediately and the minor is in detention or shelter care, the court shall determine whether the minor shall be released or continued in detention, shelter care or the least restrictive alternative available.

(b) In certification proceedings and permanent deprivation cases, the court shall enter findings of fact and conclusions of law with specific reference to each statutory requirement considered, setting forth the complete basis for its determination. Such findings and conclusions may be prepared by counsel at the direction of the court, but shall be reviewed and modified as deemed appropriate by the court prior to ~~entry~~ the court's acceptance and signing of the documents submitted by counsel.

(c) The court may at any time during or at the conclusion of any hearing, dismiss a petition and terminate the proceedings relating to the minor if such action is in the interest of justice and the welfare of the minor. The court shall dismiss any petition which has not been proven.

(d) After the dispositional hearing, the court shall enter an appropriate order or decree of disposition.

(e) Adjudication of a petition alleging abuse, neglect, or dependency of a minor shall be conducted also in accordance with § Utah Code Section 78-3a-308 and § Section 78-3a-309.

(f) Adjudication of a petition to review the removal of a child from foster care shall be conducted also in accordance with § Utah Code Section 78-3a-315.

Rule 45. Pre-disposition reports and social studies.

(a) Unless waived by the court, a pre-disposition report shall be prepared in all proceedings which result in the filing of a petition. The pre-disposition report shall be deemed waived, unless otherwise ordered, in all traffic, fish and game and boating cases, and other bailable offenses. The report shall conform to the requirements in the Code of Judicial Administration.

(b) In delinquency cases, investigation of the minor and family for the purpose of preparing the pre-disposition report shall not be commenced before the allegations have been proven without the consent of the parties.

(c) The pre-disposition report shall not be submitted to or considered by the judge before the adjudication of the charges or allegations to which it pertains. If no pre-disposition report has been prepared or completed before the dispositional hearing, or if the judge wishes additional information not contained in the report, the dispositional hearing may be continued for a reasonable time to a date certain.

(d) For the purpose of determining proper disposition of the child and for the purpose of establishing the fact of neglect or dependency, written reports and other material relating to the child's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(e) The pre-dispositional report and social studies shall be provided by the author to the minor's counsel, the prosecuting attorney, the guardian ad litem, and counsel for the parent, guardian or custodian of the minor at least two days prior to the dispositional hearing. When the minor or the minor's parent, guardian or custodian are not represented by counsel, the court may limit inspection of reports by the minor or the minor's parent, guardian or custodian if the court determines it is in the best interest of the minor to do so.

Rule 46. Disposition hearing.

(a) Disposition hearings may be separate from the hearing at which the petition is proved or may follow immediately after that portion of the hearing at which the allegations of the petition are proved. Disposition hearings shall be conducted in an informal manner to facilitate the opportunity for all participants to be heard.

(b) The court may receive any information that is relevant to the disposition of the case including reliable hearsay and opinions. Counsel for the parties are entitled to examine under oath the person who prepared the pre-disposition report if such person is reasonably available. The parties are entitled to compulsory process for the appearance of any person, including character witnesses, to testify at the hearing. A minor's parent or guardian may address the court regarding the disposition of the case, and may address other issues with the permission of the court.

(c) After the disposition hearing, the court shall enter an appropriate order. After announcing its order, the court shall advise any party who is present and not represented by counsel of the right to appeal the court's decision.

(d) The disposition order made and entered by the court shall be reduced to writing and a copy mailed or furnished to the minor and parent, guardian or custodian, or counsel for the minor and parent, guardian or custodian, if any, the prosecuting attorney, the guardian ad litem, and any agency or person affected by the court's order. The disposition order may be prepared by counsel at the direction of the court, but shall be reviewed and modified as deemed appropriate by the court prior to the court's acceptance and signing of submission.

(e) Disposition of a petition alleging abuse, neglect, or dependency of a minor shall be conducted also in accordance with Utah Code Section 78-3a-118, Section 78-3a-310, and Section 78-3a-311.

Rule 53. Appearance and withdrawal of counsel.

(a) Appearance. An attorney shall appear in proceedings by filing a written notice of appearance with the court or by appearing personally at a court hearing and advising the court that he is representing a party. Once an attorney has entered an appearance in a proceeding, the attorney shall receive copies of all notices served on the parties.

(b) Withdrawal.

(b)(1) Retained Counsel. Consistent with the Rules of Professional Conduct, a retained attorney may withdraw as counsel of record unless withdrawal may result in a delay of trial or unless a final appealable order has been entered. In such circumstances, a retained attorney may not withdraw except upon written motion and approval of the court.

(b)(2) Court-appointed counsel. Court-appointed counsel may not withdraw as counsel of record except upon motion and signed order of the court. If the court grants appointed counsel's motion to withdraw, the court shall promptly appoint new counsel.

(b)(3) If a motion to withdraw is filed after entry by the court of a final appealable judgment, order, or decree, the motion may not be granted unless counsel, whether retained or court-appointed, certifies in a written statement: ~~(a) that the represented party in a delinquency proceeding has been advised of the availability of a motion for new trial or a certificate of probable cause and that, if appropriate, the same has been filed; and (b) that the represented party has been advised of the right to appeal and that, if appropriate, a Notice of Appeal and a Request for Transcript have been filed.~~

(b)(3)(A) that the represented party has been advised of the right to appeal and that, if appropriate, a Notice of Appeal and a Request for Transcript have been filed; and

(b)(3)(B) that the represented party in a delinquency proceeding has been advised of the availability of a motion for new trial or motion for stay pending appeal and that, if appropriate, the same has been filed.

(b)(4) When an attorney withdraws as counsel of record, written notice of the withdrawal must be served upon the client of the withdrawing attorney by first class mail, to his or her last known address and upon all other parties not in default and a certificate of service must be filed with the court. If a trial date has been set, the notice of withdrawal served upon the client shall include a notification of the trial date.

(b)(5) A guardian ad litem may not withdraw except upon ~~written motion and~~ approval of the court.