

# Utah Rules of Juvenile Procedure Committee- Meeting Minutes

February 3, 2017

Noon to 2:00 p.m.

Conference Room A

MEETING DATE

TIME

LOCATION

<b>MEMBERS:</b>	Present	Absent	Excused	<b>MEMBERS:</b>	Present	Absent	Excused
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maybell Romero	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Mary Manley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chris Yannelli	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Debra Jensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trish Cassell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>AOC STAFF:</b>	Present	Excused		<b>GUESTS:</b>	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Adrienne Nash	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
James Ishida	<input type="checkbox"/>	<input checked="" type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	

## AGENDA TOPIC

<b>I. Welcome &amp; Approval of Minutes</b>		<b>CHAIR: CAROL VERDOIA</b>	
Corrections to the Minutes: None			
Motion: To approve the minutes of January 6, 2017 as written.	By: Mikelle Ostler	Second: David Fureigh	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote:	In Favor _____ Opposed _____

## AGENDA TOPIC

<b>II. Continued Discussion of Revisions to URJP 19</b>	<b>JUDGE LINDSLEY</b>
<p>Judge Lindsley explained the method she used to divide proposed Rule 19 into three separate rules designated as Rule 19, Rule 19A, and Rule 19B. Rule 19B contains the existing procedure for filing a motion for expedited hearing. Rule 19 contains the existing paragraphs (a) through (d) regarding responsive pleadings and Judge Lindsley added paragraphs (e) through (g), which were previously contained in Rule 19 as paragraphs (j) through (l). In paragraph (f), Carol Verdoia recommended changing the word "certified" to "transferred" from district to juvenile court to reflect statutory change and the use of "transferred" in Rule 100.</p> <p>Judge Lindsley sent an email to all juvenile judges and the two commissioners and received responses from every district in the state including 26 of 33 judicial officers. She asked them the following questions in light of eFiling:</p> <ol style="list-style-type: none"> <li>1. When do your clerks move motions to your review queue? (As soon as a motion is filed, after responses are received or upon the filing of a request to submit for decision).</li> <li>2. Do you require a request to submit for decision on all motions, including patron motions? Do you see requests to submit more frequently now? When do you set them for hearing?</li> </ol> <p>The results of this poll showed that more than half the judges have clerks move motions to the</p>	

review queue when everything is filed and the others wait for the request to submit to be filed. Some confusion occurs when a district has a blanket rule to hold pleadings until a request to submit is filed resulting in clerks holding motions that should not be held, such as stipulations and motions to suppress. Due to these concerns, some judges have asked to have all documents sent to their respective queues as soon as the documents are filed. Eighteen of the twenty-six judges who responded said the document goes into the judges' review queue as soon as it is filed.

The majority of the state uses requests to submit for decision. Third District does not use them with the exception of some private practitioners. The practice is common in Fourth District and the rural Districts. Second District Practice is mixed. Pro se parties can file a patron motion, but are often confused as to when to file a request to submit and mistakenly file the request to submit together with the motion. The judges who responded said they have the same requirements on both child welfare and delinquency. Judge Lindsley noted that the filing of the request to submit triggers the sixty-day reporting requirement for judges to report cases under advisement to their Presiding Judge and the Chair of the Board of Juvenile Court Judges.

The committee discussed differences in delinquency practice and their impact on filing requests to submit. The committee also discussed requirements of what should be included in a request to submit and whether the request should be combined with a proposed order.

Judge Lindsley will send a second email to all judges to seek additional guidance on whether they want to continue the practice of requiring requests to submit in a separate document or combining the request with a proposed order. She will then redraft Rule 19 based on their responses. She will also draft a sample order to discuss at the next meeting.

Judge Lindsley also called the committee's attention to proposed Rule 19A (i) in which she included existing language from Rule 19 regarding the requirement to hear dispositive motions at least fourteen days prior to a scheduled trial date.

Alan Sevison proposed revisions to the first sentence of Rule 19(a) to read as follows: "An answer to an abuse, neglect, and/or dependency petition, a petition to terminate parental rights, or a petition for a change of custody must be filed ten days after pretrial or twenty-five days after service of the petition whichever comes first, if the petition is not resolved at pretrial."

Alan Sevison also discussed Rule 19(e) and considerations regarding whether a request is made in writing or verbally in open court. The committee determined that section (e) is no longer needed since requests for expedited hearing are covered by proposed Rule 19B.

The committee discussed the provisions of Rule 19(f) and determined that the paragraph was not necessary because matters transferred from district court will be subject to existing provisions in the Rules of Juvenile Procedure regarding when the Rules of Civil Procedure are applied.

Pam Vickrey explained how the various procedural rules apply in delinquency cases. Generally the URJP apply in delinquency cases, except when rules of criminal procedure have been specifically adopted such as in motion practice. However, if both the URJP and the URCrP are silent, then the URCP will apply in the delinquency case. Judge Lindsley will review Ms. Vickrey's concerns regarding whether the final paragraph in Rule 19 should be revised or deleted. It reads "In delinquency, traffic and adult criminal matters, motion practice shall be governed by the Utah Rules of Criminal Procedure." Judge Lindsley will consider whether all of Rule 19 should apply in addition to the URCrP, or only the rules contained in the URCrP.

Action Item:

Judge Lindsley will email all juvenile judges to seek follow up information on requests to submit for decision and draft one or more sample orders for committee consideration. She will also consider the application of Rule 19 and the URCrP in regarding to the final paragraph of Rule 19.

<b>Motion #1:</b> To revise the first sentence of Rule 19(a) to read as follows: "An answer to an abuse, neglect, and/or dependency petition, a petition to terminate parental rights, or a petition for a change of custody must be filed ten days after pretrial or twenty-five days after service of the petition whichever comes first, if the petition is not resolved at pretrial."	By: Alan Sevison	Second: Judge Manley
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____
<b>Motion #2:</b> To strike paragraph (e) in proposed Rule 19.	By: Alan Sevison	Second: Maybell Romero
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____
<b>Motion#3:</b> To strike paragraph (f) in proposed Rule 19.	By: Alan Sevison	Second: Brent Hall
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____

**AGENDA TOPIC**

<b>III. Review of Supreme Court's Comments to Rule 18 and 37</b>	<b>CAROL VERDOIA</b>
<p>Carol Verdoia reviewed Rule 37 and the Supreme Court's request that the new Advisory Committee Note referencing U.C.A. Section 78A-6-1111 be moved into the body of the rule. The committee concurred with the revisions.</p> <p>Carol Verdoia also reviewed the Supreme Court's revisions to Rule 18, including moving the new Advisory Committee Notes into the body of the rule. Additional discussion followed regarding the wording of paragraph (f) and subparagraphs (f)(1) and (f)(2) at lines 84 through 96. Ultimately the committee struck "with the following addition:" from lines 87-88 and added "whether or not an attorney agrees to accept service by email." The committee agreed to strike all of paragraphs (f)(1) and (f)(1)(A) and changed subparagraph (f)(2) to (g).</p> <p>The next meeting will be March 3, 2017. The committee will finish its discussion of Rule 19A. Carol Verdoia also asked Judge Lindsley to consider whether the provision in URJP 4(c) that relates to motions should be moved to the new Rule 19 motion rules.</p>	
Motion: To approve the Supreme Court's revisions to Rule 18; to strike "with the following addition:" from lines 87-88; to add the phrase ",whether or not an	By: Alan Sevison  Second: Debra Jensen

attorney agrees to accept service by email." at line 87 after the word "rule"; to strike all of paragraphs (f)(1) and (f)(1)(A); and to change subparagraph (f)(2) to (g).	
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: In Favor _____ Opposed _____