

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

January 4, 2019

Noon to 2:00 p.m.

Education Room

MEETING DATE

TIME

LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Daniel Gubler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sophia Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Mary Manley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mikelle Ostler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arek Butler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Jordan Putnam	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trish Cassell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chris Yannelli	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Diaz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kristin Fadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AOC STAFF:	Present	Excused		GUESTS:	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Alisa Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Jean Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Bridget Koza	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Keegan Rank	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Joseph Wade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

AGENDA TOPIC

I. Welcome & Approval of Minutes		CHAIR: CAROL VERDOIA
<p>The committee completed its annual Professional Practice Disclosures. Carol Verdoia introduced Joseph Wade, a policy analyst with the Office of Legislative Research and General Counsel and Alisa Lee, DCFS Indian Child Welfare Program Administrator.</p> <p>The committee reviewed and approved the minutes of November 2, 2018.</p>		
Motion: to approve the minutes of November 2, 2018.	By: Judge Manley	Second: Judge Lindsley
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

II. Updates on Discussions with Utah Supreme Court Concerning Advisory Committee Notes, Rule 9 and Rule 27A	KATIE GREGORY
<p>Katie Gregory reviewed the Supreme Court's actions on the removal of Advisory Committee Notes. The Court approved the removal of all notes to Rules 11, 18, 24, 25, 26, 27 and 30. The Court determined that the removal of the notes did not require a public comment period. The Court's order was posted on the website of the Utah State Courts in the Juvenile Rules section. It was also forwarded to the publishers. The Court approved Rules 9 and 27A for public comment with minor revisions. The comment period for both rules closes on February 4, 2019.</p>	

AGENDA TOPIC

III. Rule 5-Definitions: Request of Utah Supreme Court for Additional Action on Proposed Revisions		CAROL VERDOIA
<p>Carol Verdoia presented the revisions to Rule 5 to the Supreme Court in December. The Justices asked that the Committee add a cross reference to Rule 32 in the definition of ungovernability contained in paragraph (j). Judge Lindsley made a motion to add "See Rule 32 of the Utah Rules of Juvenile Procedure" to section (j) of Rule 32. Daniel Gubler seconded the motion and it passed unanimously.</p> <p>Monica Diaz addressed concerns that in Rule 32 the term "minor" or "minor's" should be changed to "child" or "child's" throughout the rule and made a motion to do so. Judge Lindsley seconded the motion. Arek Butler made two friendly amendments to the motion to remove "or school authorities" from paragraph (a) and add "lawful" before the word custodian in paragraph (a). Judge Lindsley seconded the motion as amended and it passed unanimously.</p>		
Action Item:	Katie Gregory will email the revised version of Rule 5 to the Supreme Court for review and approval. Revisions to Rule 32 will be presented to the Court for comment.	
Motion #1: to add "See Rule 32 of the Utah Rules of Juvenile Procedure." to the end of section (j) of Rule 5.	By: Judge Lindsley Second: Daniel Gubler	
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor_____ # Opposed _____	
Motion #2: to revise Rule 32 by changing the term "minor" or "minor's" to "child" or "child's" respectively throughout the rule, to remove "or school authorities" from paragraph (a), and to add "lawful" before the word custodian in paragraph (a).	By: Monica Diaz with friendly amendments by Arek Butler Second: Judge Lindsley	
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: # In Favor_____ # Opposed _____	

AGENDA TOPIC

IV. Continued Discussion of Tribal Participation in Juvenile Court		CAROL VERDOIA AND ALISA LEE
<p>Carol Verdoia discussed the background of the committee's work on the issue of tribal participation and reviewed the handouts included in the meeting packet.</p> <p>Alisa Lee, DCFS Indian Child Welfare Program Administrator, was invited to the meeting as guest. Ms. Lee discussed that tribes are understaffed and lack resources, which makes participating in cases difficult. Tribes also feel that there is no set standard for their participation in court, but getting tribal participation is crucial. Enacting rules for tribal participation would be a good course of action and</p>		

could facilitate more tribal participation in cases. Ms. Lee recommended that tribal engagement should be a focus from the onset of the case and that the committee would benefit from hearing from tribal attorneys to get their perspective and recommendations on tribal participation in juvenile court cases. Tribes are also pursuing the drafting and enactment of a state ICWA law to create a consistent approach in ICWA cases.

The committee discussed concerns of the Office of Guardian ad litem regarding whether creating rules or laws for tribal participation would invite more litigation and appeals, which may delay permanency for children. Committee members discussed ramifications of mandating that a tribe be treated as a party and whether a rule could encapsulate current practice. Concerns were raised on whether the rule would apply to delinquency proceedings and whether that is appropriate.

Further discussion took place on developing trust between the court and tribes. The committee also discussed concerns about tribes not intervening until late in a case and how long it takes to find out if a child qualifies as an enrolled member of a tribe.

The committee decided that they would like to invite tribal attorneys to a future meeting for further discussion.

Action Item:	Katie Gregory and Alisa Lee will discuss a plan to invite tribal attorneys to a future meeting
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AGENDA TOPIC

V. Rule 30-Citations; applicable offenses and procedures; bail.	TRISH CASSELL
Trish Cassell discussed concerns with Rule 30, which is now inconsistent with statutory changes made in HB 239. Citations are eFiled, but juvenile court no longer utilizes bail in practice. Ms. Cassell will address her concerns with members of the Utah Board of Juvenile Justice to see if the issue needs to be addressed statutorily rather than by rule.	
Action Item:	Ms. Cassell will report back after discussions with UBJJ.