Utah Supreme Court's
Advisory Committee on the Rules of Juvenile Procedure

Meeting Agenda

Matthew Johnson, Chair

Location: Webex Meeting

Date: August 1, 2025

Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of the June 6, 2025 meeting minutes.	Tab 1	Matt Johnson
Discussion & Action: Rule 15. Preliminary inquiry; informal adjustment without petition. • *SB0157 amends Utah Code section 80-6-304. A minor will no longer be able to decline a nonjudicial adjustment without first being advised of their right to consult with counsel. Vice-chair Bill Russell proposes amending Rule 15 to add this new requirement.* • *Ms. Stacy Haacke will provide an update on the Board of Juvenile Court Judges' recent adoption of a standing order on the sharing of police reports with defense counsel.*	Tab 2	Stacy Haacke All
Discussion & Action: Rule 34. Pre-trial hearing in non-delinquency cases. • *Rule 34 was presented to the Utah Supreme Court on July 9, 2025. The Court made additional changes to Rule 34, and sent the rule out for public comment. The Court's changes and reasons will be shared with the group.*	Tab 3	All

Discussion: Defense Counsel Qualifications When Youth Face Risk of Adult Prosecution. • *The Committee received a letter from the Indigent Defense Commission requesting this Committee consider a rule similar to Rule 8(b) of the Utah Rules of Criminal Procedure. Vice-chair Bill Russell has proposed new Rule 23B.*	Tab 4	All
Discussion: Rule 20A. Discovery in non-delinquency proceedings. • *Rule 20A(i) may have an outdated reference to Rule 37 of the Utah Rules of Civil Procedure.* • *In 2015, Rule 37 was amended to its current structure, more or less.* • *The current reference in Rule 20A(i) to Rule 37 made sense from 2011 to 2015. Included in the materials is a 2011 version of Rule 37.*	Tab 5	All
Discussion: Rule 18. Summons; service of process; notice. • *Daniel Meza Rincón and Dawn Hautamaki seek the Committee's guidance on the interplay between Rule 18 and Rule 5 of the Utah Rules of Civil Procedure as it relates to email service of notices, pleadings, and other papers to represented and unrepresented parties.*	Tab 6	Daniel Meza Rincón Dawn Hautamaki
Discussion: Old business or new business.		All

URJP Committee Site

Meeting Schedule:

September 5, 2025	November 7, 2025
October 3, 2025	December 5, 2025

TAB 1

Utah Supreme Court's
Advisory Committee on the Rules of Juvenile Procedure

Draft Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: June 6, 2025

Time: 12:00 p.m. – 2:00 p.m.

Attendees:	**Excused Members**:
Matthew Johnson, Chair William Russell, Vice Chair Adrianna Davis David Fureigh, Emeritus Member Dawn Hautamaki Elizabeth Ferrin Janette White Jordan Putnam Sophia Moore Thomas Luchs Arek Butler Judge David Johnson Judge Debra Jensen Michelle Jeffs	James Smith
	Guests: Paige Nelson, Office of Legislative Research and General Counsel
Staff: Joe Mitchell, Juvenile Court Law Clerk Lisa McQuarrie, Juvenile Court Law Clerk	

Tyler Ulrich, Recording Secretary
Raymundo Gallardo

1. **Welcome and approval of the May 2, 2025, Meeting Minutes**. (Matthew Johnson)

Committee Chair Matthew Johnson welcomed everyone to the meeting. Chair Johnson then asked the Committee for approval of the May 2, 2025, meeting minutes. Vice Chair William Russell made a motion to adopt the proposed minutes as presented. Judge Debra Jensen seconded the motion, and it passed unanimously.

2. **Discussion & Action: Rule 34. Pre-trial hearing in non-delinquency cases**. (All)

Chair Johnson reported that he, Vice-chair Russell, and Mr. Gallardo met with the Supreme Court and Justice Pohlman had several comments and suggestions, as well as questions, to bring back to the Committee.

Chair Johnson stated that the first question presented was whether adding the term "respondent" before "parent, guardian, or custodian" was appropriate, then simply referring to "respondent" in the rest of the proposed rule. Mr. Fureigh felt that adding "respondent" was appropriate and accurate. Vice-chair Russell clarified that Justice Pohlman felt that only referring to " respondent parent, guardian, or custodian" one time in the rule, then simply using the term respondent, may be a more succinct way of referring to the respondent throughout the rule. The members of the Committee felt that it was appropriate to make that change.

Justice Pohlman also had questions as to what the Committee meant by the term "reasonable dispositional orders." Chair Johnson and Vice-Chair Russell explained to the Supreme Court what dispositional orders are made in non-delinquency cases. Judge David Johnson said that the word "reasonable" is used throughout the child welfare statute and that the subcommittee was trying to mirror the language contained in the statute. Judge Johnson and Judge Jensen both opined that removing the word "reasonable" would make sense, and Mr. Putnam agreed that the word is not needed. The members of the Committee approved the removal of the word "reasonable" before the term "dispositional orders", and the proposed rule will now read "potential for dispositional orders".

Mr. Gallardo shared that Justice Pohlman suggested an alternative to the "answer" language and presented it to the Committee. Mr. Fureigh was in favor of the proposed language by Justice Pohlman and talked about keeping that language in subparagraph (e) as it may be confusing to practitioners to move such a commonly used rule to another subsection. At the same time, Mr. Fureigh thinks that it may be a

good change to move that language as it could help practitioners begin to use the language of "uncontested answer" as proposed by the revised rule.

Vice-Chair Russell was concerned about some of the omissions made by Justice Pohlman's revisions, specifically leaving out the language "proceeding with an uncontested answer." Vice-Chair Russell was not necessarily opposed to the change but wanted the Committee to make sure it is being omitted knowingly.

Judge Johnson wanted clarifications on exactly what language proposed by the subcommittee was being changed, and Chair Johnson shared those revisions. Judge Johnson was concerned about the potential that the revisions change the substance of what the subcommittee proposed and that the word "uncontested" was removed. Judge Johnson expressed his preference for the original language proposed by the subcommittee.

Mr. Gallardo provided more clarification regarding the exact proposals from Justice Pohlman, and Mr. Putman expressed a desire to keep the language about an uncontested answer in subparagraph (e) for historical practice purposes. Mr. Butler noted that the phrase "uncontested answer" came directly form the Board of Juvenile Court Judges. Chair Johnson expressed his preference for the original language proposed by the subcommittee and believed it to be more in line with recent appellate court decisions.

The Committee engaged in discussion about where to include this language and how to keep it in subparagraph (e) as preferred by many of the members. Mr. Putnam made a proposal on adjusting the subsection numbering in a manner that allowed the proposed language to stay in subparagraph (e) and still added much of the language proposed by the Supreme Court. The Committee also addressed the proposed subparagraph (g) regarding relief and suggested removing the language "non-denials" added by the Supreme Court, reverting to the original language proposed by the subcommittee. Judge Johnson also noted that there is a separate rule that addresses relief from default judgment found in subparagraph (h).

Mr. Fureigh noted that the proposed subparagraph (b) language of "minor is in temporary shelter care custody" did not make sense to him. Mr. Fureigh noted that pretrial hearings are governed by statue and cover removal and non-removal situations, so the extra language was not needed. Ms. White suggested changing the language to "pursuant to statute" and thought that would cover removals and non-removals, including expedited petitions. Judge Johnson asked if that language would also cover privately filed petitions that have different statutory timelines than those filed by the State.

Chair Johnson and Vice-Chair Russell suggested listing the statutes referred to in the rules and thought that it would be helpful in being consistent with the direction given by the Supreme Court. Judge Jensen suggested using the title of the statute in lieu of specific citations to cover all potential hearings under that statute. The proposed rule was amended to add "Utah Code Title 80, Chapter 3."

The Committee then addressed subparagraph (c), and Mr. Putman noted that the language used does not mirror actual practice when it says "at the outset" when a judge is informing a respondent of their rights. Ms. Moore proposed adding "Prior to adjudication of the petition" and removing "at a pre-trial hearing." Vice-Chair Russell thought that the new proposed language was clearer and more succinct.

Chair Johnson reported that the Supreme Court wanted to know what findings are made, and how they are made (orally or in writing), when a court finds that a waiver of rights is knowing and voluntary. Chair Johnson explained to the Supreme Court that those findings are usually done orally on the record, and also in writing when a written order is prepared by the assistant attorney general. Mr. Luchs shared that it should always be included in the written adjudication orders prepared by the assistant attorney general when a respondent parent waives those rights. Judge Jensen added that, in practice, judges do make the findings orally on the record, and then it is later memorialized in a written order. Judge Johnson noted that a judge can amend a proposed order if needed to clarify that a respondent waived their rights knowingly and voluntarily. Mr. Putnam noted that the rule should reflect that those rights are only waived when admissions or uncontested answers are entered, not when denials or trials occur.

The Supreme Court was concerned that subparagraph (g) made a general referral to the "applicable rules of appellate procedure" and suggested adding a specific referenced to Rule 52 of the Utah Rules of Appellate Procedure. The Committee agreed with the addition of a specific reference to Rule 52.

Ms. Moore recalled back to the discussion of using the word "respondent" and wondered whether future amendment of other rules should reflect that change as well. Chair Johnson suggested that adding that language during future amendments and changes would be beneficial for continuity among the rules. Vice-Chair Russell asked that court staff review where it would be beneficial to add "respondent parent" to the language of other rules.

Mr. Gallardo presented all the changes that the Committee had agreed upon and Chair Johnson thanked everyone for their input, expressing that he believed that the current draft was appropriate. Mr. Luchs made a motion to present today's version of Rule 34 to the Supreme Court for approval. The motion was seconded by Ms. White

and Judge Johnson and passed unanimously. The proposed rule will be presented to the Supreme Court for approval.

Chair Johnson asked what Committee members would like to be shared with the Supreme Court regarding subparagraph (e). Judge Jensen noted that the use of the phrase "uncontested petition" did not make sense in practice as each parent must answer a petition separately and independently of the other parent(s). Mr. Putnam added that a parent could answer various paragraphs of the same petition in different ways, suggesting that the language "uncontested answer" was more accurate than "uncontested petition".

3. **Discussion: Defense Counsel Qualifications When Youth Face Risk of Adult Prosecution**. (All)

The Committee discussed the proposal of new rule 23B. Vice-Chair Russell gave a historical overview of these cases and reported that the Indigent Defense Counsel asked that the Committee address this issue by rule. Vice-Chair Russell explained the procedure that goes into these types of cases, including preliminary hearings to determine probable cause, and subsequent retention hearings. Vice-Chair Russell mirrored the language used in adult capital offense cases, as well as appellate rule 38B, and modified the language to reflect juvenile court practice. Vice-Chair Russell recognized that some of the potential qualifications may be too stringent and exclusive and noted that there has been previous discussion of expanding to a broader range of previous experience and qualifications. The current draft contemplates a mentor/lead attorney, along with a less experienced co-counsel, as covered in subparagraph (a)(1) of the current draft. Vice-Chair Russell believes this change will help more attorneys achieve these qualifications. The current draft also captures the unique nature of retention/transfer cases by requiring that at least one of the appointed attorneys have prior experience with these cases.

Vice-Chair Russell noted that the language in subparagraph (b) is taken directly from appellate rule, as is most of subparagraph (c).

Ms. White asked if the IDC and other potential defense counsel have given input to the current draft. Vice-Chair Russell responded that the IDC is who suggested creating this rule and asked that the Committee take the lead in creating a proposed draft.

Judge Jensen agreed that these are some of the most difficult cases seen in juvenile court and require attorneys with significant experience. However, Judge Jensen wants to be cognizant of more rural areas and suggested gathering feedback from practitioners in those more rural districts. Judge Jensen also asked if the requirement of having a certain number of cases as defense counsel could be amended to

contemplate attorneys that have filled different roles in those cases. Vice-Chair Russell clarified that former prosecutors could count some of their prior experience but would still need some experience in the role of defense counsel.

Ms. Davis shared her concern of how exclusive the suggested standards are and suggested gathering data of how many practitioners across the state could meet those standards, preventing the result that only a handful of attorneys would be able to handle these cases statewide. Ms. Davis suggested that including previous experience as a prosecutor in these cases would be beneficial and still give potential counsel the experience necessary to handle these matters. Vice-Chair Russell spoke about the potential of UJDA staffing and consulting with other jurisdictions on these matters.

Ms. White expressed concern about who would bear the cost of providing counsel in these cases in counties that may not have practitioners who meet the proposed standards. Ms. White suggested that the cost issue may need to be addressed by statute. Judge Johnson spoke about having the IDC address the issue of cost and about the difficulties that may arise in rural areas.

Mr. Fureigh asked if there are similar requirements in other rules, such as in the Rules of Criminal Procedure, to qualify for such cases. Vice-Chair Russell reported that much of the language in the current draft comes directly form the rules of criminal and appellate procedure and would ensure that a minor charged with these offenses has the same protection under the 6th Amendment to the right to effective counsel. Vice-Chair Russell noted that this is potential for a completely new rule for juvenile cases.

Ms. White asked if this could create a ripple effect on other types of cases, such as a petition for termination of parental rights. Vice-Chair Russell answered that this is being addressed in direct response to a request from the IDC, so that while it is a starting point, it could create a domino effect.

Vice-Chair Russell expressed his desire to have more involvement from rural areas in addressing this issue to address their specific challenges. Chair Johnson asked whether current contracted providers would meet the suggested requirement of "active practice of juvenile defense." Vice-Chair Russell thinks that it could include many part-time juvenile court practitioners while excluding attorneys with insufficient juvenile court experience.

Vice-Chair Russell and Ms. White suggested forming a subcommittee to address this issue and gathering input from rural counties. Ms. White also suggested gathering more input from the IDC and the Utah Prosecution Council, especially to address the additional costs that may come with a new rule. Ms. Hautamaki was willing to begin gathering input in her jurisdictions and will begin to gather contact information from

those who could give more input. Ms. Hautamaki reported that more of the attorneys that are appointed in rural jurisdictions are coming from urban areas now due to virtual hearings.

Chair Johnson suggested tabling the discussion at this time to allow various parties to gather more information, and Ms. White suggested getting more input from the judiciary. The discussion was then tabled until the next Committee meeting.

4. Discussion and Action: Rule 16. Transfer of Delinquency Case. (All)

Chair Johnson reported that the comment period for Rule 16 closes today and that no comments have yet been submitted. Mr. Gallardo noted that the Supreme Court wanted to identify the party that transfers a referral in subparagraph (a)(1), and language was added that a probation officer would be the party to transfer a referral to the county of occurrence when a non-judicial adjustment is considered. Judge Johnson noted that it is law enforcement that send in referrals to juvenile probation, but a prosecutor is who makes a final determination when a petition is filed.

Mr. Gallardo noted that subparagraph (e) still refers to "district" and asked whether that should be changed to "county". Chair Johnson prefers "district" as judicial districts cover more than one county. Ms. Hautamaki noted that a case may at times be re-filed in a different county within the same district and therefore preferred the use of "district" in lieu of "county."

Mr. Gallardo noted that the final publication of this rule is scheduled on November 1, 2025. Ms. Hautamaki and Vice-Chair Russell asked if it could be published sooner, and Mr. Fureigh and Ms. Ferrin agreed, especially if this is already being done in practice. Mr. Gallardo noted that the Supreme Court generally publishes twice a year, in May and November, unless there is a need to publish outside of those times. Chair Johnson and Vice-Chair Russell suggested that if some counties are already doing this in practice, it creates good cause to publish the rule outside of the May and November dates.

Ms. Hautamaki made a motion to adopt the proposed rule for publishing on September 1, 2025. Ms. White seconded the motion, and it passed unanimously.

5. Discussion and Action: Rule 16A. Transfer of a Non-Delinquency Proceeding

Chair Johnson reported that the public comments on the proposed rule closed on June 2, 2025, and noted that no comments were submitted. There was no further input at this time from the Committee. Ms. Moore made a motion to adopt the proposed rule effective also on September 1, 2025. The motion was seconded by Ms. Jeffs, and it passed unanimously. The proposed rule will be presented to the Supreme Court.

6. **Discussion and Action: Rule 29. Multiple County Offenses.** (All)

Chair Johnson reported that the public comment period for Rule 29 closed on February 1, 2025, and noted that no comments were submitted. Chair Johnson and Vice-Chair Russell suggested asking that this rule be published in September along with the proposed Rule 16.

Ms. White made a motion to adopt the proposed rule for publishing on September 1, 2025. The motion was seconded by Ms. Ferrin and passed unanimously.

7. **Discussion and Action: Rule 37A. Visual Recording of Statement or Testimony of Child in Abuse, Neglect, Dependency, or Substantiation Proceedings – Conditions of Admissibility.** (All)

Chair Johnson reported that the public comment period for Rule 37A closed on June 2, 2025, and noted that one comment was received in support of the proposed changes.

Ms. Jeffs made a motion to adopt the proposed rule for publishing effective November 1, 2025. The motion was seconded by Judge Jensen and passed unanimously.

8. **Discussion and Action: Rule 44. Findings and Conclusions.** (All)

Chair Johnson reported that the public comment period closed on June 2, 2025, and no comments were submitted.

Ms. White made a motion to adopt the proposed rule for publishing effective November 1, 2025. The motion was seconded by Vice-Chair Russell and passed unanimously.

9. **Discussion: Rule 20A. Discovery in Non-Delinquency Proceedings.** (All)

This matter was tabled until the next scheduled meeting in August.

10. **Old business/new business:** (All)

Chair Johnson expressed gratitude to the Committee's departing members for their service and dedication to this Committee: Sophia Moore, Jordan Putnam, and Arek Butler.

The meeting adjourned at 1:56 PM. The next meeting will be held on August 1, 2025, via Webex.

TAB 2

Rule 15. Preliminary inquiry; informal adjustment without petition.

(a) If a minor qualifies for a nonjudicial adjustment pursuant to statute, the probation officer must offer a nonjudicial adjustment to the minor.

(b) If a minor does not qualify for a nonjudicial adjustment, the probation officer may conduct one or more interviews with the minor, or if a child, then with the child and at least one of the child's parents, guardians, or custodians, and may invite the referring party and the victim, if any, to attend or otherwise seek further information from them. Attendance at any such interview is voluntary, and the probation officer may not compel the disclosure of any information or the visiting of any place.

(c) In any such interview, the minor, or if a child, then the child and the child's parent, guardian, or custodian, must be advised that the interview is voluntary, that the minor has the right to have counsel present to represent the minor, that the minor has the right not to disclose any information, and that any information disclosed that could tend to incriminate the minor cannot be used against the minor in court to prove whether the minor committed the offense alleged in the referral.

(d) If, on the basis of the preliminary inquiry, the probation officer concludes that nonjudicial adjustment is appropriate and is authorized by law, the probation officer may seek agreement with the minor, or if a child, then with the child and the child's parent, guardian, or custodian, to a proposed nonjudicial adjustment. If a minor declines a nonjudicial adjustment, the probation officer must advise the minor of their right to consult with counsel and the availability of resources with which to do so.

(e) If an agreement is reached and the terms and conditions agreed upon are satisfactorily complied with by the minor, or if a child, then with the child and the child's parent, guardian, or custodian, the case must be closed without petition. Such resolution of the case will not be deemed an adjudication of jurisdiction of the court and will not constitute an official record of juvenile court action or disposition. A nonjudicial adjustment may be considered by the probation officer in a subsequent preliminary inquiry and by the

court for purposes of disposition only, following adjudication of a subsequent delinquency involving the same minor.

(f) The initial time in which to complete a nonjudicial adjustment, and any extensions thereof, are governed by Utah Code section 80-6-304.

Rule 15. Preliminary inquiry; informal adjustment without petition.

(a) If a minor qualifies for a nonjudicial adjustment pursuant to statute, the probation officer must offer a nonjudicial adjustment to the minor.

(b) If a minor does not qualify for a nonjudicial adjustment, the probation officer may conduct one or more interviews with the minor, or if a child, then with the child and at least one of the child's parents, guardians, or custodians, and may invite the referring party and the victim, if any, to attend or otherwise seek further information from them. Attendance at any such interview is voluntary, and the probation officer may not compel the disclosure of any information or the visiting of any place.

(c) In any such interview, the minor, or if a child, then the child and the child's parent, guardian, or custodian, must be advised that the interview is voluntary, that the minor has the right to have counsel present to represent the minor, that the minor has the right not to disclose any information, and that any information disclosed that could tend to incriminate the minor cannot be used against the minor in court to prove whether the minor committed the offense alleged in the referral.

(d) If, on the basis of the preliminary inquiry, the probation officer concludes that nonjudicial adjustment is appropriate and is authorized by law, the probation officer may seek agreement with the minor, or if a child, then with the child and the child's parent, guardian, or custodian, to a proposed nonjudicial adjustment. If a minor declines a nonjudicial adjustment, the probation officer must advise the minor of their right to consult with counsel and the availability of resources with which to do so.

(e) If an agreement is reached and the terms and conditions agreed upon are satisfactorily complied with by the minor, or if a child, then with the child and the child's parent, guardian, or custodian, the case must be closed without petition. Such resolution of the case will not be deemed an adjudication of jurisdiction of the court and will not constitute an official record of juvenile court action or disposition. A nonjudicial adjustment may be considered by the probation officer in a subsequent preliminary inquiry and by the

court for purposes of disposition only, following adjudication of a subsequent delinquency involving the same minor.

(f) The initial time in which to complete a nonjudicial adjustment, and any extensions thereof, are governed by Utah Code section 80-6-304.

IN THE [district_number] DISTRICT JUVENILE COURT
STATE OF UTAH

	STANDING ORDER ON POLICE REPORTS MAINTAINED BY THE JUVENILE PROBATION DEPARTMENT

It is hereby ordered:

In cases where a minor is consulting with defense counsel pursuant to Utah Code section 80-6-304, a juvenile probation officer may, upon request from defense counsel, release a police report related to the incident to the assigned defense counsel. A police report may contain sensitive and confidential information, it may be specifically classified by the law enforcement agency, and when maintained by the juvenile probation department, it may only be released by court order pursuant to Rule 4-202.03(8) of the Utah Judicial Council Code of Judicial Administration. As such, release of a police report pursuant to this Standing Order is subject to the following protections and restrictions:

1. A juvenile probation officer is only required to release a police report upon request if one has already been submitted to juvenile probation by the law enforcement agency for the related incident. A juvenile probation officer is not required to obtain a police report upon request.
2. Upon release, the police report is meant for defense counsel's eyes only and may only be used for purposes of advising youth on the nonjudicial adjustment. Defense counsel must take steps that are reasonably necessary to protect the police report to prevent disclosure.
3. The police report and information contained therein may not be disseminated, reproduced, or maintained by defense counsel after advising the youth. Counsel may not provide contact information of the alleged victim to the youth. The police report must be destroyed or returned after consultation with the youth is complete.
4. If a youth declines a nonjudicial adjustment or otherwise appears before the court on the incident, a police report and any information contained therein must be requested and obtained pursuant to traditional procedural rules.
5. Whether inadvertent or otherwise, if defense counsel becomes aware of disclosure of the police report or any information contained therein, defense counsel must immediately notify the juvenile probation officer and cooperate in efforts to determine the scope of disclosure and any restorative measures.

A juvenile probation officer must include a copy of this Standing Order with any police report provided pursuant to its terms.

Any individual in violation of this Standing Order may be subject to contempt proceedings before the court.

DATED: _____, 2025.

_____
[Name], Presiding Judge
[district_number] District Juvenile Court

TAB 3

Rule 34. Pre-trial hearing in non-delinquency cases.

(a) The court will schedule ~~P~~petitions in non-delinquency cases ~~shall be scheduled~~ for an initial pre-trial hearing.

(b) The court will schedule ~~T~~the pre-trial hearing ~~shall be scheduled~~ on the nearest court calendar date available ~~in all cases where the subject minor is in temporary shelter care custody~~ in accordance with Utah Code Title 80, Chapter 3~~section 80-3-401~~.

(c) Prior to adjudication of the petition~~In the pre-trial hearing~~, the court ~~shall~~will

(1) ~~advise~~inform the respondent parent, guardian, or custodian of the minor's rights and of the authority of the court in such cases;

(2) inform the respondent of the respondent's rights, including appellate rights;

(3) advise the respondent that a finding based on the respondent's answer may subject the respondent and the respondent's children to the court's jurisdiction; and

(4) advise the respondent of the potential for dispositional orders that may affect the respondent's parental rights. ~~In the hearing or in any continuance of the hearing, the parent, guardian or custodian shall answer the petition in open court.~~

(d) ~~Before answering, the respondent may move to dismiss the petition as insufficient to state a claim upon which relief can be granted. The court shall hear all parties and rule on said motion before requiring a party to answer.~~After the court provides the information identified in paragraph (c), the respondent must answer the petition in open court.

(e) A respondent may answer the petition by admitting or denying ~~the~~ specific allegations ~~of the petition,~~ or by proceeding with an uncontested answer by declining to admit or deny the allegations. Allegations not specifically denied by a respondent ~~shall~~will be deemed true.

(f) The court will specifically find that the respondent's admissions or uncontested answers and any waiver of the respondent's rights are knowing and voluntary.

(g~~f~~) An answer to a child welfare petition is civil in nature. Relief from admissions or uncontested answers are governed by civil remedies, including Rule 59 and Rule 60 of the Utah Rules of Civil Procedure, Rule 52 of the Utah Rules of Appellate Procedure, and Rule 48 of these rules. Relief sought under this rule will not toll any statutory timeframes.

(h) Except in cases where the petitioner is seeking a termination of parental rights, the court may enter the default of any respondent who fails to file an answer~~,~~ or who fails to appear either in person or by counsel after having been served with a summons or notice pursuant to Rule 18. Allegations relating to any party in default ~~shall~~will be deemed admitted unless the court, on its own motion, or the motion of any party not in default, ~~shall~~ requires evidence in support of the petition. ~~Within the time limits set forth in Utah R. Civ. P. 60(b), upon the written motion of any party in default and a showing of good cause, the court may set aside an entry of default.~~ On timely motion and for good cause shown, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b) of the Utah Rules of Civil Procedure.

Rule 34. Pre-trial hearing in non-delinquency cases.

(a) The court will schedule ~~P~~petitions in non-delinquency cases ~~shall be scheduled~~ for an initial pre-trial hearing.

(b) The court will schedule ~~T~~the pre-trial hearing ~~shall be scheduled~~ on the nearest court calendar date available ~~in all cases where the subject minor is in temporary shelter care custody~~ in accordance with Utah Code Title 80, Chapter 3~~section 80-3-401~~.

(c) Prior to adjudication of the petition~~In the pre-trial hearing~~, the court ~~shall~~will

(1) ~~advise~~inform the respondent parent, guardian, or custodian of the minor's rights and of the authority of the court in such cases;

(2) inform the respondent of the respondent's rights, including appellate rights;

(3) advise the respondent that a finding based on the respondent's answer may subject the respondent and the respondent's children to the court's jurisdiction; and

(4) advise the respondent of the potential for dispositional orders that may affect the respondent's parental rights. ~~In the hearing or in any continuance of the hearing, the parent, guardian or custodian shall answer the petition in open court.~~

(d) ~~Before answering, the respondent may move to dismiss the petition as insufficient to state a claim upon which relief can be granted. The court shall hear all parties and rule on said motion before requiring a party to answer.~~After the court provides the information identified in paragraph (c), the respondent must answer the petition in open court.

(e) A respondent may answer the petition by admitting or denying ~~the~~ specific allegations ~~of the petition,~~ or by proceeding with an uncontested answer by declining to admit or deny the allegations. Allegations not specifically denied by a respondent ~~shall~~will be deemed true.

(f) The court will specifically find that the respondent's admissions or uncontested answers and any waiver of the respondent's rights are knowing and voluntary.

(g~~f~~) An answer to a child welfare petition is civil in nature. A respondent seeking relief from admissions or uncontested answers must seek relief as provided in Rule 48. Relief sought under this rule will not toll any statutory timeframes.

(h) Except in cases where the petitioner is seeking a termination of parental rights, the court may enter the default of any respondent who fails to file an answer~~,~~ or who fails to appear either in person or by counsel after having been served with a summons or notice pursuant to Rule 18. Allegations relating to any party in default ~~shall~~will be deemed admitted unless the court, on its own motion, or the motion of any party not in default, ~~shall~~ require~~s~~ evidence in support of the petition. ~~Within the time limits set forth in Utah R. Civ. P. 60(b), upon the written motion of any party in default and a showing of good cause, the court may set aside an entry of default.~~ On timely motion and for good cause shown, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b) of the Utah Rules of Civil Procedure.

TAB 4

Appointment of counsel in cases under Utah Code section 80-6-503.

(a) **Transfer case qualifications**. In all cases in which counsel is appointed to represent a minor who is charged by information filed in the juvenile court under Utah Code section 80-6-503, the court will appoint one or more attorneys to represent the minor and will make a finding on the record that appointed counsel is competent under this rule to litigate a transfer case. To be found competent to represent a minor charged in a transfer case, the experience of the appointed attorneys must meet the following requirements:

(1) at least one of the appointed attorneys must have appeared as counsel and tried to judgment after trial, or to ruling after evidentiary hearing, at least four juvenile or adult prosecutions as defense counsel within the past five years; or, have appeared as counsel and tried to judgment after trial, or to ruling after evidentiary hearing, at least eight juvenile prosecutions in the past 10 years, with at least two of the eight cases as defense counsel or defense co-counsel;

(2) at least one of the appointed attorneys must have appeared as defense counsel or defense co-counsel in a transfer case before the juvenile court which was submitted for decision and final ruling on both the probable cause and retention/transfer phases of the preliminary hearing;

(3) within the last five years, at least one of the appointed attorneys must have completed or taught at least four hours of approved continuing legal education which dealt, in substantial part, with the representation of youth in transfer cases and including principles of adolescent brain development; and

(4) at least one of the appointed attorneys must have at least three years of experience in the active practice of juvenile defense.

(b) **Transfer case appointment considerations**. In making its selection of attorneys for appointment in a specific transfer case, the juvenile court will also consider the following factors:

(1) whether the attorneys under consideration for appointment under this rule are members in good standing with the Utah State Bar;

(2) whether the attorneys under consideration for appointment under this rule have ever been the subject of a disciplinary proceeding and if so, when the proceedings took place and for what reason;

(3) whether one or more of the attorneys under consideration have previously appeared as defense counsel or defense co-counsel in a transfer case in the past five years;

(4) the extent to which the attorneys under consideration have sufficient time and support and can dedicate those resources to the representation of the minor in the transfer case now pending before the court with undivided loyalty to the minor;

(5) the extent to which the attorneys under consideration have engaged in the active practice of juvenile defense in the past three years;

(6) the diligence, competency, total workload, and ability of the attorneys being considered; and

(7) any other factor which may be relevant to a determination that counsel for appointment will fairly, efficiently, and effectively provide representation to the minor.

(c) **Exemption**. Notwithstanding any other provision of this rule, any attorney currently employed by an indigent defense service provider under Utah Code section 78B-22-102 to provide court-appointed representation for juvenile defense must be independently eligible for appointment to represent minors for transfer cases. This paragraph does not apply to an attorney who has contracted with a county in the attorney's individual capacity to provide court-appointed juvenile defense resources.

(d) **Transfer case bindover appeals**. In all cases where a minor is bound over to the district court in a transfer case, if appellate review of the bindover order is sought, the court will appoint one or more attorneys to represent the minor on such appeal who are

currently on the Appellate Roster under Rule 11-401 of the Utah Code of Judicial Administration.

TAB 5

Rule 37. Discovery and disclosure motions; Sanctions.

(a) **Motion for order compelling disclosure or discovery.**

(a)(1) A party may move to compel disclosure or discovery and for appropriate sanctions if another party:

(a)(1)(A) fails to disclose, fails to respond to a discovery request, or makes an evasive or incomplete disclosure or response to a request for discovery;

(a)(1)(B) fails to disclose, fails to respond to a discovery request, fails to supplement a disclosure or response or makes a supplemental disclosure or response without an adequate explanation of why the additional or correct information was not previously provided;

(a)(1)(C) objects to a discovery request ;

(a)(1)(D) impedes, delays, or frustrates the fair examination of a witness; or

(a)(1)(E) otherwise fails to make full and complete disclosure or discovery.

(a)(2) A motion may be made to the court in which the action is pending, or, on matters relating to a deposition or a document subpoena, to the court in the district where the deposition is being taken or where the subpoena was served. A motion for an order to a nonparty witness shall be made to the court in the district where the deposition is being taken or where the subpoena was served.

(a)(3) The moving party must attach a copy of the request for discovery, the disclosure, or the response at issue. The moving party must also attach a certification that the moving party has in good faith conferred or attempted to confer with the other affected parties in an effort to secure the disclosure or discovery without court action and that the discovery being sought is proportional under Rule 26(b)(2).

(b) **Motion for protective order.**

(b)(1) A party or the person from whom discovery is sought may move for an order of protection from discovery. The moving party shall attach to the motion a copy of the request for discovery or the response at issue. The moving party shall also attach a certification that the moving party has in good faith conferred or attempted to confer with other affected parties to resolve the dispute without court action.

(b)(2) If the motion raises issues of proportionality under Rule 26(b)(2), the party seeking the discovery has the burden of demonstrating that the information being sought is proportional.

(c) **Orders**. The court may make any order to require disclosure or discovery or to protect a party or person from discovery being conducted in bad faith or from annoyance, embarrassment, oppression, or undue burden or expense, or to achieve proportionality under Rule 26(b)(2), including one or more of the following:

(c)(1) that the discovery not be had;

(c)(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(c)(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(c)(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(c)(5) that discovery be conducted with no one present except persons designated by the court;

(c)(6) that a deposition after being sealed be opened only by order of the court;

(c)(7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

(c)(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court;

(c)(9) that a question about a statement or opinion of fact or the application of law to fact not be answered until after designated discovery has been completed or until a pretrial conference or other later time; or

(c)(10) that the costs, expenses and attorney fees of discovery be allocated among the parties as justice requires.

(c)(11) If a protective order terminates a deposition, it shall be resumed only upon the order of the court in which the action is pending.

(d) **Expenses and sanctions for motions**. If the motion to compel or for a protective order is granted, or if a party provides disclosure or discovery or withdraws a disclosure or discovery request after a motion is filed, the court may order the party,

witness or attorney to pay the reasonable expenses and attorney fees incurred on account of the motion if the court finds that the party, witness, or attorney did not act in good faith or asserted a position that was not substantially justified. A motion to compel or for a protective order does not suspend or toll the time to complete standard discovery.

(e) **Failure to comply with order.**

(e)(1) Sanctions by court in district where deposition is taken. Failure to follow an order of the court in the district in which the deposition is being taken or where the document subpoena was served is contempt of that court.

(e)(2) Sanctions by court in which action is pending. Unless the court finds that the failure was substantially justified, the court in which the action is pending may impose appropriate sanctions for the failure to follow its orders, including the following:

(e)(2)(A) deem the matter or any other designated facts to be established in accordance with the claim or defense of the party obtaining the order;

(e)(2)(B) prohibit the disobedient party from supporting or opposing designated claims or defenses or from introducing designated matters into evidence;

(e)(2)(C) stay further proceedings until the order is obeyed;

(e)(2)(D) dismiss all or part of the action, strike all or part of the pleadings, or render judgment by default on all or part of the action;

(e)(2)(E) order the party or the attorney to pay the reasonable expenses, including attorney fees, caused by the failure;

(e)(2)(F) treat the failure to obey an order, other than an order to submit to a physical or mental examination, as contempt of court; and

(e)(2)(G) instruct the jury regarding an adverse inference.

(f) **Expenses on failure to admit.** If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions proves the genuineness of the document or the truth of the matter, the party requesting the admissions may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney fees. The court shall make the order unless it finds that:

(f)(1) the request was held objectionable pursuant to Rule 36(a);

(f)(2) the admission sought was of no substantial importance;

(f)(3) there were reasonable grounds to believe that the party failing to admit might prevail on the matter;

(f)(4) that the request is not proportional under Rule 26(b)(2); or

(f)(5) there were other good reasons for the failure to admit.

(g) **Failure of party to attend at own deposition.** The court on motion may take any action authorized by paragraph (e)(2) if a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to appear before the officer taking the deposition, after proper service of the notice. The failure to act described in this paragraph may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order under paragraph (b).

(h) **Failure to disclose.** If a party fails to disclose a witness, document or other material as required by Rule 26(a) or Rule 26(d)(1), or to amend a prior response to discovery as required by Rule 26(d)(4), that party shall not be permitted to use the witness, document or other material at any hearing unless the failure to disclose is harmless or the party shows good cause for the failure to disclose. In addition to or in lieu of this sanction, the court on motion may take any action authorized by paragraph (e)(2).

(i) **Failure to preserve evidence.** Nothing in this rule limits the inherent power of the court to take any action authorized by paragraph (e)(2) if a party destroys, conceals, alters, tampers with or fails to preserve a document, tangible item, electronic data or other evidence in violation of a duty. Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.

Advisory Committee Notes

The 2011 amendments to Rule 37 make two principal changes. First, the amended Rule 37 consolidates provisions for motions for a protective order (formerly set forth in Rule 26(c)) with provisions for motions to compel. By consolidating the standards for these two motions in a single rule, the Advisory Committee sought to highlight some of

the parallels and distinctions between the two types of motions and to present them in a single rule.

Second, the amended Rule 37 incorporates the new Rule 26 standard of "proportionality" as a principal criterion on which motions to compel or for a protective order should be evaluated. As to motions to compel, Rule 37(a)(3) requires that a party moving to compel discovery certify to the court "that the discovery being sought is proportional under Rule 26(b)(2)." Rule 37(b) makes clear that a lack of proportionality may be raised as ground for seeking a protective order, indicating that "the party seeking the discovery has the burden of demonstrating that the information being sought is proportional."

Rule 20A. Discovery in non-delinquency proceedings.

(a) **Scope of discovery**. The scope of discovery is governed by ~~Utah R. Civ. P.~~Rule 26(b)(1) of the Utah Rules of Civil Procedure. Unless ordered by the court, no discovery obligation may be imposed upon a minor.

(b) **Disclosures**. Within 14 days of the answer, a party ~~shall~~must, without awaiting a discovery request, make reasonable efforts to provide to other parties information necessary to support its claims or defenses, unless solely for impeachment or unless the identity of a person is protected by statute, identifying the subjects of the information. The party ~~shall~~must inform the other party of the existence of such records.

(c) **Depositions upon oral questions**. After the filing of the answer, a party may take the testimony of any person, including a party, by deposition upon oral question without leave of the court. Depositions ~~shall~~must be conducted pursuant to ~~Utah R. Civ. P.~~Rule 30 of the Utah Rules of Civil Procedure. The record of the deposition ~~shall~~must be prepared pursuant to ~~Utah R. Civ. P.~~Rule 30(f) of the Utah Rules of Civil Procedure except the deponent will have seven days to review the transcript or recording under ~~Utah R. Civ. P.~~Rule 30(e) of the Utah Rules of Civil Procedure. The use of depositions in court proceedings ~~shall be~~is governed by ~~Utah R. Civ. P.~~Rule 32 of the Utah Rules of Civil Procedure.

(d) **Interrogatories**. After the filing of the answer, interrogatories may be used pursuant to ~~Utah R. Civ. P.~~Rule 33 of the Utah Rules of Civil Procedure except all answers ~~shall~~must be served within 14 days after service of the interrogatories.

(e) **Production of documents and things**. After the filing of the answer, requests for production of documents may be used pursuant to ~~Utah R. Civ. P.~~Rule 34 of the Utah Rules of Civil Procedure except all responses ~~shall~~must be served within 14 days after service of the requests.

(f) **Physical and mental examination of persons**. Physical and mental examinations may be conducted pursuant to ~~Utah R. Civ. P.~~Rule 35 of the Utah Rules of Civil Procedure.

(g) **Requests for admission**. Except as modified in this paragraph, requests for admission may be used pursuant to ~~Utah R. Civ. P.~~Rule 36 of the Utah Rules of Civil Procedure. The matter ~~shall~~will be deemed admitted unless, within 14 days after service of the request, the party to whom the request is directed serves upon the requesting party a written answer or objection addressed to the matter, signed by the party or by his attorney. Upon a showing of good cause, any matter deemed admitted may be withdrawn or amended upon the court's own motion or the motion of any party. Requests for admission can be served anytime following the filing of the answer.

(h) **Experts**.

(1) **Adjudication trials**. Any person who has been identified as an expert whose opinions may be presented at the adjudication trial must be disclosed by the party intending to present the witness at least ten days prior to the trial or hearing unless modified by the court. If ordered by the court, a summary of the proposed testimony signed by the party or the party's attorney ~~shall~~must be filed at the same time.

(2) **Termination of parental rights trials**. Any person who has been identified as an expert whose opinions may be presented at the termination of parental rights trial must be disclosed by the party intending to present the witness at least thirty days prior to the trial or hearing unless modified by the court. Unless an expert report has been provided, a summary of the proposed testimony signed by the party or the party's attorney ~~shall~~must be filed at the same time.

(3) A party may not present the testimony of an expert witness without complying with this paragraph (h) unless the court determines that good cause existed for the failure to disclose or to provide the summary of proposed testimony.

(i) **Protection~~ve orders~~ from discovery**. Any party or person from whom discovery is sought may request a protective order pursuant to ~~Utah R. Civ. P.~~Rule 37~~(b)~~ of the Utah Rules of Civil Procedure.

(j) **Supplementation of responses**. Parties have a duty to supplement responses and disclosures pursuant to ~~Utah R. Civ. P.~~Rule 26(d) of the Utah Rules of Civil Procedure.

(k) **Failure to cooperate in discovery**. As applicable, failure to cooperate with discovery ~~shall be~~is governed by ~~Utah R. Civ. P.~~Rule 37 of the Utah Rules of Civil Procedure.

(l) No discovery can be taken that will interfere with the statutorily imposed time frames.

(m) Subpoenas are governed by ~~Utah R. Civ. P.~~Rule 45 of the Utah Rules of Civil Procedure.

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(c) **Depositions upon oral questions**. After the filing of the answer, a party may take the testimony of any person, including a party, by deposition upon oral question without leave of the court. Depositions must be conducted pursuant to Rule 30 of the Utah Rules of Civil Procedure. The record of the deposition must be prepared pursuant to Rule 30(f) of the Utah Rules of Civil Procedure except the deponent will have seven days to review the transcript or recording under Rule 30(e) of the Utah Rules of Civil Procedure. The use of depositions in court proceedings is governed by Rule 32 of the Utah Rules of Civil Procedure.

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deemed admitted unless, within 14 days after service of the request, the party to whom the request is directed serves upon the requesting party a written answer or objection addressed to the matter, signed by the party or by his attorney. Upon a showing of good cause, any matter deemed admitted may be withdrawn or amended upon the court's own motion or the motion of any party. Requests for admission can be served anytime following the filing of the answer.

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(3) A party may not present the testimony of an expert witness without complying with this paragraph (h) unless the court determines that good cause existed for the failure to disclose or to provide the summary of proposed testimony.

(i) **Protection from discovery**. Any party or person from whom discovery is sought may request a protective order pursuant to Rule 37 of the Utah Rules of Civil Procedure.

(j) **Supplementation of responses**. Parties have a duty to supplement responses and disclosures pursuant to Rule 26(d) of the Utah Rules of Civil Procedure.

(k) **Failure to cooperate in discovery**. As applicable, failure to cooperate with discovery is governed by Rule 37 of the Utah Rules of Civil Procedure.

(l) No discovery can be taken that will interfere with the statutorily imposed time frames.

(m) Subpoenas are governed by Rule 45 of the Utah Rules of Civil Procedure.

TAB 6

Judicial Law Clerk Attorney Memorandum

TO: Daniel Meza Rincon

FROM: Tyler I. Herrera

RE: Consent to Email Service in Juvenile Court

DATE: April 28, 2025

ANALYSIS

This memorandum serves to briefly summarize an ongoing discussion regarding the interplay between rule 18 of the Utah Rules of Juvenile Procedure, rule 5 of the Utah Rules of Civil Procedure, and the "Consent to Email Service and Notification" form used by the juvenile courts.

Rule 18 – Utah Rules of Juvenile Procedure

Subsection (d) provides that notice of the "time, date, and place of any further proceedings, after an initial appearance or service of summons, may be given in open court or by mail to any party." Utah R. Juv. P. 18(d)(1). Further, service can be effectuated by email if "the party has agreed to accept service by email" and the clerk "sends notice to the email address provided by the party." *Id*. Second, "Notice for any party represented by counsel must be given by counsel for the party through either mail, notice given in open court, or to the email address on file with the Utah State Bar." Utah R. Juv. P. 18(d)(2). It appears that rule 18(d) intends to govern notice *only*, and that service of "pleadings and other papers" are governed by rule 18, subsection (f). Therefore, it appears that for an individual who is *not* represented by an attorney, they would need to consent to service of "Notice" via email, otherwise, they would need to be provided "Notice" pursuant to subsection (d).

Further, rule 18(f), provides "service of pleadings and other papers not requiring a summons must be made by the methods provided in Rule 5 of the Utah Rules of Civil Procedure, except that service to the email address on file with the Utah State Bar is sufficient service to an attorney under this rule, whether or not an attorney agrees to accept service by email." Utah R. Juv. P. 18(f).

The consensus through our discussion was that subsection (f) appears to provide instructions for service of "pleadings and other papers not requiring a summons" *only* to attorneys. Otherwise, it appears that service (i.e. service of any other papers *not* served to an attorney) is governed by Rule 5 of the Utah Rules of Civil Procedure.

Rule 5 - Utah Rule of Civil Procedure

Rule 5(b)(1) of the Utah Rules of Civil Procedure provides that "if a party is self-represented, service must be made upon the self-represented party." Utah R. Civ. Pro. 5(b)(1). But if the party is represented by an attorney, "a document served under this rule must be served upon the attorney unless the court orders service upon the party." *Id*.

Further, subsection (b)(3)(b)(i)-(iii) governs methods of service, specifically as it pertains to email service. Under this rule, service via email must be to either (i) the most recent email address the person being served has provided to the court; (ii) if service is to an attorney licensed in Utah, to the email address on the attorney's most recent filing or on file with the Utah State Bar, and (iii) if service is to an attorney not licensed in Utah, to the email address on the attorney's most recent filing or on file with the attorney licensing entity in the state where the attorney is licensed. Utah R. Civ. Pro. 5(b)(3)(B)(i)-(iii),

As noted, under rule 18(f) of the Utah Rules of Juvenile Procedure, service of "pleadings and other papers not requiring a summons" are governed by Rule 5 of the Utah Rules of Civil Procedure. Thus, under this rule, it appears that subsection (b)(3)(B)(i), permits an unrepresented individual to be served with these "pleadings and other papers," via email *without* a consent for email service. Further, subsection (b)(3)(B)(ii)-(iii) authorizes the juvenile court to email documents to attorneys *without* having a consent for email service signed by the attorney.

CONCLUSION

In sum, there is significant interplay between URJP 18, URCP 5, and the "Consent to Email Service Notification" used by the juvenile courts. As it stands, the consensus amongst group review is that, when a party *is* represented, all communication, including "Notices," should go from the court to the attorney, and then from the attorney to client.

Alternatively, for an individual who *is not* represented by an attorney, they must consent to receiving "Notices," via email, but it appears that under URJP 18(f) and URCP 5(b)(3)(B)(i), an unrepresented party does not need to consent to receive "pleadings and other papers not requiring a summons."

One final thought is that it may be beneficial to request that the URJP Committee review rule 18 and to confer with the committee to discern the express intent of rule 18. In particular, it might be helpful to confirm with the committee that rule 18(f) is meant to *only* apply to "Notices" and that service of all other "pleadings and papers" are to be governed by URCP 5. From there, the "Consent to Email Service Notification" could be updated to better reflect whether a particular party is "represented" and to add clarifying language as to what impact that has on service for the party.