

**UTAH SUPREME COURT ADVISORY COMMITTEE  
ON THE RULES OF EVIDENCE**

**MEETING MINUTES**

**November 14th, 2023  
5:15 p.m.-7:00 p.m.  
Via Webex**

<u>MEMBERS PRESENT</u>	<u>MEMBERS EXCUSED</u>	<u>GUESTS</u>	<u>STAFF</u>
Chris Hogle Nicole Salazar-Hall Sarah Carlquist David Billings Adam Alba Dallas Young Hon. Linda Jones Rachel Sykes Hon. Richard McKelvie Matthew Hansen Hon. David Williams Ryan McBride Tony Graf Hon. Michael Leavitt Ed Havas	Deborah Bulkeley Jennifer Parrish Tenielle Brown Benjamin Miller Melinda Bowen Hon. Vernice Trease	Jacqueline Carlton	Jace Willard Angelica Juarez

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**1. WELCOME AND APPROVAL OF MINUTES**

Chris Hogle welcomed everyone to the meeting. After a minor change to the minutes from last meeting, Sarah Carlquist moved to approve the October minutes. Judge McKelvie seconded. The motion carried.

**2. URE 101, 412, 615, and 1101 proposed amendments given final approval by SC, effective 11/1/23**

Mr. Hogle gave an update that the amendments to URE 101, 412, 615, and 1101 were all approved by the Supreme Court and became effective November 1, 2023.

**3. URE 506 proposed amendments going back to SC 11/15/23**

Mr. Hogle, Ms. Carlquist, and Nicole Salazar-Hall will meet with Supreme Court regarding URE 506 tomorrow.

#### **4. Proposed amendments Re: In-person vs Remote Appearances (URE 104, 201, 603, 612, 615, 804)**

Mr. Hogle thanked the subcommittee consisting of Rachel Sykes, Adam Alba, and David Billings, who agreed to work on this. Mr. Billings gave an update. The subcommittee made proposed redline edits to various rules regarding remote hearings.

Mr. Alba was also on the subcommittee and added that these changes may not be necessary. Mr. Alba added that the rules of evidence have a section in Rule 101 with definitions, and that if there is a need to define a “hearing” or a “trial”, we may be able to add a definition in there to state that it includes those hearings or trials that are conducted remotely. Alternatively, Judge Leavitt suggested that changes could be made to Rule 1101’s provisions to specify that the rules apply regardless of whether hearings are held remotely or in-person.

In addressing the work that the subcommittee did on this, Mr. Billings stated that he skimmed through the entire rules of evidence to see if there were areas where the language regarding remote hearings/trials made sense. Ms. Sykes confirmed that she did the same. The subcommittee looked at other jurisdictions for any similar changes but did not find anything.

The group then had a lively discussion on whether or not such changes were necessary, or if no action was needed. Mr. Hogle called for a vote and 7 members (majority) were in favor of the no action approach.

In the event that the Supreme Court wants this committee to take some action, the majority voted in favor of clarifying applicability of the rules under Rule 1101.

Mr. Hogle then asked the subcommittee to prepare a report to the Supreme Court stating that most of the committee members are in favor of doing nothing, but if something needs to be done, then the committee is agreeable to amending Rule 1101. Mr. Hogle motioned to approve. Ms. Salazar-Hall seconded. The motion carried.

#### **5. Rule 106**

The last time we considered Rule 106 was back in 2021. We even modified a rule and sent it up to the Supreme Court. The Federal Rules have since been amended in a similar manner to our previously proposed amendments.

The group considered whether the Utah rule should follow the new Federal rule. The group voted on whether to suggest a modification to the Supreme Court, which would modify Rule 106 to align with the new Federal rule. Ms. Salazar- Hall moved to do so. Mr. Billings seconded. No naysayers. Motion passed. Jace Willard agreed to put something together to send to the Supreme Court.

#### **6. 2024 Committee meeting schedule**

We typically meet six times during the year: once in January, February, April, June, October, and

November. Mr. Hogle proposed the following schedule: February 13th; April 9th; June 11th; October 8th; and November 12th. We already have a meeting on the calendar for January 9th. No objections to the proposed schedule. Mr. Willard will send out calendar invites.

Ms. Salazar-Hall added that we want to be aware of the next legislative session. Ms. Salazar-Hall and Mr. Young are on the rapid response team.

**ADJOURN:**

Ms. Carlquist moved to adjourn. Mr. Alba seconded.

**With no further items to discuss, Mr. Hogle adjourned the meeting. The next meeting will be January 9th, at 5:15 pm, via Webex video conferencing.**