



Utah Supreme Court Rules of Evidence Committee

Meeting Agenda

Nicole Salazar-Hall, Chair

Location: [WebEx](#) Meeting

Date: June 9, 2026

Time: 5:15 p.m. - 7:15 p.m. MST

Action: Welcome and Approval of May Minutes	Tab 1	Nicole Salazar-Hall
Action: URE 807 – new draft Committee Note	Tab 2	Adam Merrill
Update: URE 107 (coordination with other rules committees) and 1006		Jace Willard
Fond Farewell to Judge Jones		Nicole Salazar-Hall

[Committee Web Page](#)

Meeting Schedule:

October 13, 2026

November 10, 2026

Rule Status:

URE 107 – Back from Supreme Court – new Committee Note approved; coordinating with other implicated Rules Committees

URE 404 – Amended by Legislature; going to Supreme Court for guidance

URE 702 – Back from comment; Subcommittee drafting note revisions

URE 707 - Adopted by Legislature; going to Supreme Court for guidance
URE 801 - Awaiting further federal caselaw
URE 804 - Back from comment; going to Supreme Court for final approval
URE 807 - Back from Supreme Court; Subcommittee will present new note
URE 901 - In draft (on hold pending FRE AI-amendments)
URE 1006 - Approved by Supreme Court to go out for comment - awaiting Rule 107
URE Committee Notes Review - In draft with subcommittee
AI Rules - Under study by subcommittee

TAB 1

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

MEETING MINUTES

**May 12, 2026
5:15 p.m.-7:15 p.m.
Via Webex**

<u>MEMBERS PRESENT</u>	<u>MEMBERS EXCUSED</u>	<u>GUESTS</u>	<u>STAFF</u>
David Billings Teneille Brown Wendy Brown Sarah Carlquist Clint Heiner Hon. Linda Jones Nathan Lyon Scott Lythgoe Hon. Tad May Ryan McBride Benjamin Miller Andres Morelli Hon. Coral Sanchez Hon. Rick Westmoreland	Adam Merrill Nicole Salazar-Hall Rachel Sykes Dallas Young		Jace Willard

1. Welcome and Approval of Minutes

Ms. Carlquist welcomed everyone to the meeting. The April meeting minutes were approved.

2. URE 804: Review Public Comments (None)

Ms. Carlquist noted that the proposed amendments to Rule 804 were published for comment and did not receive any public comments. Mr. Morelli moved to send the proposed amendments back to the Supreme Court with a request that they be given final approval. Mr. Lyon seconded. The motion carried.

3. URE 702: Review Public Comments

Ms. Carlquist summarized the proposed changes to Rule 702, noting the intended purpose is to make the language of the rule conform with existing practice allowing blind experts. The proposed changes were published and many negative public comments were submitted in

response, apparently mainly from personal injury, med-mal, and criminal law practitioners. Mr. Lythgoe served on the URE 702 subcommittee and observed that the civil practitioners on the subcommittee generally opposed the proposed changes. He agreed with the comments left by other civil practitioners, John Macfarlane and Alyson McAllister.

Professor Brown indicated that she was somewhat confused by the opposition to the proposed changes. “Blind expert” testimony offers general, background, or group-level explanations that can be very helpful without giving an opinion regarding the specific facts of the case. This is permitted in both civil and criminal cases. Under Rule 703, experts may rely on facts not personally known (hearsay), and it would be up to the factfinder to connect the dots as to whether, for example, a given individual is a member of the group to which the expert is testifying. Under Rule 104(b), courts may admit evidence subject to conditional relevance, with the jury deciding the connection to the facts of the case. She emphasized that such testimony must still be tethered to the case’s facts, contrary to the suggestion of some of the comments, or there would be Rule 401 and 402 problems. She also pointed out that Rule 704 preserves the jury’s role to draw factual inferences. The negative comments seem to reflect a misunderstanding of the evidence rules, focusing on part of Rule 702 without addressing the other rules just noted.

Mr. Lythgoe moved to send Rule 702 back to the subcommittee (Prof. Brown, Mr. Heiner, Mr. Lythgoe, Mr. McBride, Mr. Morelli, and Ms. Sykes) for substantive work to address the comments. Mr. McBride and Mr. Heiner expressed doubt as to whether that would be productive. Mr. Morelli and Mr. Lythgoe noted there may be a dispute over how the law is applied in civil versus criminal cases. Judge Sanchez seconded the motion to send the rule back to the subcommittee to clarify or address the comments. The motion carried.

7. Update: Draft URE 107 and 1006

Mr. Willard reported that draft Rule 107 has been sent to staff for the other implicated court rule committees and will be an item on the May or June agendas for those committees.

ADJOURN:

With no further items to discuss, Ms. Carlquist adjourned the meeting. The next meeting will be held on June 9, 2026, beginning at 5:15 pm, via Webex Webinar video conferencing.

TAB 2

1 **Rule 807. Residual ~~E~~exception.**

2 *Effective: ~~11/1/2004~~*

3 **(a) In General.** Under the following ~~circumstances~~conditions, a hearsay statement is not
 4 excluded by the rule against hearsay even if the statement is not specifically covered by
 5 admissible under a hearsay exception in Rule 803 or 804:

Formatted: Highlight

Formatted: Strikethrough, Highlight

6 ~~(a)(1)~~ the statement ~~has equivalent circumstantial~~ is supported by sufficient
 7 guarantees of trustworthiness ~~— after considering the totality of circumstances under~~
 8 which it was made and evidence, if any, corroborating the statement; and

9 ~~(a)(2)~~ it is offered as evidence of a material fact;

10 ~~(a)(3)~~ it is more probative on the point for which it is offered than any other evidence
 11 that the proponent can obtain through reasonable efforts; ~~and.~~

12 ~~(a)(4)~~ admitting it will best serve the purposes of these rules and the interests of
 13 justice.

14 **(b) Notice.** The statement is admissible only if, ~~before the trial or hearing,~~ the proponent
 15 gives an adverse party reasonable notice of the intent to offer the statement ~~and its~~
 16 ~~particulars,~~ — including its substance and the declarant's name and address, — so that the
 17 party has a fair opportunity to meet it. The notice must be provided in writing before the
 18 trial or hearing — or in any form during the trial or hearing if the court, for good cause,
 19 excuses a lack of earlier notice.

20 _____

21 2026 Advisory Committee Note. ~~†~~ Apart from the phrase “not specifically covered by” in
 22 Rule 807(a), the amendments track changes to the federal rule, verbatim.

23 **2011 Advisory Committee Note.** The language of this rule has been amended as part of
 24 the restyling of the Evidence Rules to make them more easily understood and to make
 25 class and terminology consistent throughout the rules. These changes are intended to be

26 stylistic only. There is no intent to change any result in any ruling on evidence
27 admissibility. This rule is the federal rule, verbatim.

28 **Original Advisory Committee Note.** This rule transfers identical provisions Rule 803(24)
29 and Rule 804(b)(5) to a new Rule 807 to reflect the organization found in the Federal Rules
30 of Evidence. No substantive change is intended. This rule is the federal rule, verbatim.

31

URE 807 - Alternative B

Go back to the original proposal (with all of the FRE language, including “admissible under”) and amend the original advisory committee note to so indicate, such as the following:

2026 Advisory Committee Note. The amendments track changes to the federal rule, verbatim, which among other things, clarify that courts may consider whether statements were a “near miss” of one of the Rule 803 or 804 exceptions. See Advisory Committee Notes to 2019 Amendments to Fed. R. Evid. 807.