

**Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of October 2, 2020 Meeting**

I. Call to Order

The Rules of Juvenile Procedure Committee came to order around 9:00 A.M. via videoconference. Members present or excused from the meeting were:

Name	Present	Excused
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby, Chair		X
David P. Ayraud	X	
Howard Bartlett		X
Jennifer Conn		X
Sheri Danz	X	
Traci Engdol-Fruhworth		X
Judge David Furman	X	
Ruchi Kapoor	X	
Shana Kloek AND Andi Truett	X	
Wendy Lewis		X
Peg Long	X	
Judge Ann Meinster	X	
Judge Dave Miller		X
Chief Judge Mick O'Hara		X
Trent Palmer		X
Professor Colene Robinson	X	
Magistrate Fran Simonet		X
Judge Traci Slade	X	
John Thirkell	X	
Pam Wakefield	X	
Non-voting Participants		
Justice Richard Gabriel, Liaison	X	
Terri Morrison		X
J.J. Wallace	X	

Attachments & Handouts:

- (1) Draft Minutes of 8/7/20 Meeting
- (2) Proposed Rule Re CASA
- (3) Revised Proposed Advisement Rule (after disposition) & Clean Version of the Rule with section 19-1-109, C.R.S. (2020)

I. Call to Order

- A. The Chair called the meeting to order shortly after 9 AM.

II. Chair's Report

A. The 8/7/2020 meeting minutes were approved by the committee.

III. Old Business

A. CASA Rule Proposal Final Vote

The committee amended the language of the comment. The committee voted unanimously to approve the draft rule proposal as amended and include it with the other approved rules.

B. Adjudicatory Jury Trials (referred to CIP)

Judge Slade indicated that any issues have been resolved because courts are doing trials again and nothing further is needed from the committee.

C. C.R.J.P. 3.7 & SB19-108 (referred to Juvenile Justice Committee)

Judge Walker forwarded the potential rule amendments to members of his committee and they will be providing feedback via email. The feedback will be gathered and presented in the meeting materials for the next meeting

D. Rule Proposal from the Access to Justice Committee Re Interlocutory Appeal Advisement (Judge Meinster, David Ayraud, Ruchi Kapoor, Terri Morrison)

The group explained that it met and reviewed the proposal from the Access to Justice Committee. The group used the proposal as a starting place for drafting a rule focusing on advising parties of their appellate rights after disposition, although it was acknowledged that some of those rights are less than clear. The draft focuses on advising on (1) the right to appeal after disposition; (2) expedited deadlines; (3) failure to appeal may result in waiver of claims; (4) right to counsel; and (5) where to find more information.

A committee member noted that a court can issue several dispositional orders over the course of a case. The committee agreed that the right to appeal is attached to the initial dispositional order and recommended the rule only require an advisement at the initial dispositional order.

A committee member pointed out that only respondents have the right to appointed counsel through ORPC, not parties generally. Relatedly, which case participants or parties can appeal is not 100% clear and that makes providing a specific advisement difficult. The committee amended the proposal to say "indigent parties may have the right to assistance of appointed counsel."

The committee also agreed that the last section (on where to find more information) should be in the passive voice.

After making these changes, the committee debated whether it should proceed with an advisement rule. On the one hand, under the statute, an adjudicatory order is appealable, this is a unique statutory right, and providing an advisement is laudable. On the other hand, crafting an appropriate advisement given the ambiguities about the rights involved is difficult, and the

advisement ends up not being very specific (e.g. “there are expedited deadlines” and “you may waive claims if not appealed now” and “you may have a right to counsel”). There is also some concern that if there is a rule requiring an advisement and the court does not advise the parties, this creates rights (and related appealable issues) that otherwise would not exist. The committee is reluctant to create substantive rights and believes that those kinds of decisions should be left to the legislature.

The Chair suggested that we table the discussion until the next meeting. He asks the committee members, in the interim, to weigh the potential benefit of advisement against the risk of creating new problems. At the next meeting, the committee can decide whether to continue to draft an advisement rule or not.

E. ICWA Rules (tabled)

Judge Furman related that the ICWA subcommittee would be meeting soon to discuss the committee’s feedback from the last meeting. An update on the subcommittee’s progress will be provided at the next meeting.

IV. New Business

A. None

V. Adjourn-Next Meeting December 4, 2020, 9:00 A.M.

(Subsequently postponed to February 5, 2021)

The Committee adjourned at approximately 11 A.M.

Respectfully Submitted,
J.J. Wallace