

Colorado Supreme Court
Colorado Rules of Juvenile Procedure Committee
Draft Meeting Minutes: Friday, December 6, 2024

I. Call to Order

A quorum being present, the Colorado Rules of Juvenile Procedure Committee was called to order by the Chair at around 9 a.m. via videoconference.

The following members were present at the meeting:

The Chair, Judge Craig R. Welling; David P. Ayraud; Jerin T. Damo; Traci Engdol-Fruhworth; Magistrate Randall Lococo; Judge Priscilla J. Loew; Judge Pax L. Moultrie; Angela Rose; Z Saroyan; Judge Theresa Slade; Anna Ulrich; Pamela Gorden Wakefield; and Abigail Young.

The following members were excused from the meeting:

Judge Karen A. Ashby (retired); Judge David Furman (retired); Judge Ann Meinster (retired); Professor Colene Robinson; and Lisa Shellenberger.

J.J. Wallace, a non-voting participant, was present at the meeting, and Justice Richard L. Gabriel and Terri Morrison, also non-voting participants, were excused.

Jennifer Mullenbach, a member of the Drafting Subcommittee, attended the meeting as a guest.

The following materials were used during the meeting:

1. Draft minutes of the 8/2/2024 meeting
2. Memo on C.R.J.P. 2.3 & 2.4
3. Draft Rules Proposal
4. Written Feedback

II. Chair's Report

A. Minutes

The minutes of the August 2, 2024 meeting were approved without amendment.

B. Plan for Feedback on Rule 4.6

The committee has received some feedback on the implementation of Rule 4.6. Rather than taking focus off the draft rules set, the committee will keep the feedback and, once

the draft rules are approved and submitted to the court, begin looking at the feedback for making updates to Rule 4.6.

The Chair also noted that the ICWA rules were a year old and may need some maintenance. A committee member also mentioned that Truancy lacks rules and the committee may want to consider modifying Rule 1 (Application) to include Truancy. The chair indicated that the committee can begin looking at these issues at the next meeting in February and come up with concrete plans to address them.

III. New Business

A. Drafting Subcommittee – Memo on C.R.J.P. 2.3 & 2.4

The Chair explained that the Drafting Subcommittee recommended a couple more changes to the 2-series rules as outlined in the memo provided with the meeting materials. A motion was made and seconded to adopt the changes. No further feedback was offered. The motion passed unanimously.

B. Draft Rules Proposal

The Chair thanked the Drafting Subcommittee for their hard work and indicated that he would go through all the rules asking for feedback from the committee.

Rule 1: a member indicated that the committee should consider adding the School Attendance Law of 1963, article 33 of title 22 (Truancy), to applicability. Other members indicated that having a reference to Truancy would be helpful because it's "the Wild West" when it comes to rules in these case types. The committee felt that this was likely a good idea. The committee decided to discuss this issue further at the February meeting with the hopes of coming up with a plan to generate stakeholder input.

Rules 2 to 2.4: These rules were discussed at recent meetings. There were no further comments.

Rule 4.1: Added "brought" after cases to indicate that these rules apply to all D&N cases. Some provisions that apply to D&N cases are found in article 1 (not just article 3). Adding "brought" clarifies that the case is initially brought under article 3 and is consistent with language in other rules and statutes. (*see e.g.*, Rule 4.3 "A dependency and neglect case must be *brought* by a county attorney"; § 19-3-201, C.R.S. "all proceedings *brought* pursuant to this article 3").

Rule 4.2: No comments.

Rule 4.3: A member explained that the rule is clear that GALs are not parties because they are not listed.

A member asked about CASAs and learned that CASAs are covered by a separate rule (Rule 4.28).

Another member asked about the reference to “juvenile court.” Because section 19-1-103(89), C.R.S. (2024) defines “Juvenile court” or “court” as “the juvenile court of the city and county of Denver or the juvenile division of the district court outside of the city and county of Denver” and Rule 4.2 adopts the definitions in the Children’s Code, the Drafting Subcommittee decided to use, as a convention throughout the rules, “juvenile court” as the first reference to the court in a rule and subsequent references within the same rule as “court.”

Rule 4.4: A member reminded the committee that this rule was drafted by a subcommittee (the HB22-1038 Subcommittee) to incorporate new legislation clarifying children’s right to participate in the proceedings. Generally, the committee has not tried to impose new requirements with the rules. The goal has been to conform to legislative requirements and current practices. However, section (c) is a bit of a departure. Children participating in the proceedings has been a sea change and the committee felt that the inquiry requirement in (c) provides robust guidance to implement the change.

Rule 4.5: No comments.

Rule 4.6: No comments.

Rule 4.7: No comments.

Rule 4.8: Upon the suggestion of a member, the committee added a reference to where the definition of “Indian child” is found in the U.S. Code. The committee considered referring to the Children’s Code’s definitions statute, or the ICWA statute, but members felt that these can change or be renumbered and citing to the federal authority would be a better option. The committee also added a reference to the Colorado Rules of ICWA Procedures in the Comments.

Rule 4.9: The Drafting Subcommittee did not make sweeping changes to this rule because the Disclosure and Discovery Rule is still new. The committee has received some written feedback and will have the rule on the agenda for the February 2025 meeting.

Rule 4.10: The committee added “youth” to the title of the rule. As another convention, the Drafting Subcommittee used “Children” and “Youth” together.

Rule 4.11: At the suggestion of a member, the committee added the following comment: “Nothing in this rule limits the power of the court to appoint, for good cause, a respondent parent counsel, counsel for youth, or guardian ad litem prior to the filing of a petition” to the rule.

Rule 4.12: No comments.

Rule 4.13: No comments.

Rule 4.14: No comments.

Rule 4.15: One member asked whether there was an advisement for kids. The legislation does not require the court to advise kids. Advisements are left to the lawyers. The committee thought this made sense because it allows for advisements tailored to the individual’s needs.

Rule 4.16: No comments.

Rule 4.17: No comments.

Rule 4.18: No comments.

Rule 4.19: No comments.

Rule 4.20: No comments.

Rule 4.21: Members pointed out that subsections (b)(3) and (4) could be impacted by three cases currently before the supreme court on certiorari review.

Rule 4.22: No comments.

Rule 4.23: No comments.

Rule 4.24: Added “joint placement of siblings” to the list of hearing procedures and requirements in the comment.

Rule 4.25: No comments.

Rule 4.26: The Chair pointed out that the main thing this rule does is clarify that the statement of the youth's position should be treated the same as reports by the other parties for review hearings.

Rule 4.27: A small formatting change was made to un-bold a couple of sequential numbers/letters.

Rule 4.28: A member asked whether "by order of the court" could be deleted from the end of (a) as redundant to "appoint." The committee used the language to emphasize that a formal order helps CASAs do their job.

Rule 4.29: The committee focused its discussion on section (c) Re: Reports. Section (c) lays out a procedure to provide notice of social studies and other reports that are admissible by statute, *see* §§ 19-1-107 and 19-3-604(3). Committee members were hesitant to create a process around these reports. Members felt that there were no problems to solve in this area because admission of these reports (without the witness also being present) was a fairly rare occurrence, so it was best to let the statutes speak for themselves. By consensus, (c) in the proposal on Reports was deleted from the final draft and the reference to (c) in (b)(2) was also removed.

Rule 4.30: The rule adopts C.R.C.P. 121 section 1-15 with the listed alterations. A member thought leading with pre-trial motions was confusing, so the rule was reordered to start with responses, go to replies, and then talk about pretrial motions. The committee also modified the default response time from 7 days to 14 days. Committee members said that, although D&N cases move quickly, under contemporary practice norms, 14 days is a fair response time.

Rule 4.31: A formatting change was made to align (d) with (a), (b), and (c).

Rule 4.32: This is just the current rule (C.R.J.P. 4.4). No comments.

Rule 4.33: This is also the current rule (C.R.J.P. 4.5), but the committee agreed to remove the old comment explaining the reasons why the committee changed the number of days that a person must be personally served before the hearing from 20 days to 14 days.

Rule 4.34: The committee considered adding a reference to section 19-3-604(3) to the beginning of the rule ("Except for reports filed pursuant to section 19-1-107") but rejected the idea because there does not appear to be a problem with these reports.

Rule 4.35: No comments.

A motion was made and seconded to adopt the draft as amended by the committee and to forward the draft to the supreme court with a recommendation for approval. A roll call vote was taken and the motion passed unanimously.

The Chair extended his deepest gratitude to the committee for this years-long effort. Also, thanks to Judge Ashby, who began the process and has been involved since the beginning. And very special thanks to the Drafting Subcommittee, who met every two weeks for over a year to finalize the draft.

The Chair will draft a letter to the supreme court and forward the rules to the court for their consideration.

At the February meeting, the committee will look at Truancy and maintenance issues with the disclosure and discovery rule and the ICWA rules. If anyone has any feedback in the meantime, please email the Chair or J.J. Wallace.

IV. Old Business (none)

V. Future Meetings

The next meeting is February 7, 2025.

Additional meetings are scheduled for:

- April 4, 2025
- June 6, 2025
- August 1, 2025
- October 3, 2025
- December 5, 2025

VI. Adjourn

The committee meeting adjourned just before noon.