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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of )  
 ) Supreme Court No. R-\_\_\_\_\_  
PETITION TO AMEND RULES )  
OF PROCEDURE FOR THE FOSTER )  
CARE REVIEW BOARDS AND THE )  
SUPPLEMENTAL RULES OF THE )  
STATE FOSTER CARE REVIEW )  
BOARD )  
\_\_\_\_\_ )

Pursuant to Arizona Supreme Court Rule 28, David K. Byers, Administrative Director, Administrative Office of the Courts, Arizona Supreme Court, respectfully petitions this Court to adopt the attached proposed rule amendments to the Rules of Procedure for the Foster Care Review Boards, Rules 1 through 8 and Supplemental Rules of the State Foster Care Review Board, Rules 1 through 4.

**I. Background and Purpose of the Proposed Rule Amendments.**

Petitioner requests modifications to both the Rules of Procedure for the Foster Care Review Boards and the Supplemental Rules of the State Foster Care

Review Board. The recommended changes now separate the Rules into Rules of Procedure for the Local Foster Care Review Boards and Rules of Procedure for the State Foster Care Review Board. The reorganization prompted by the amendments also brings clarity and consistency to the rules, conformity with statute, as well as alignment with current practices. Throughout the rules, we have made minor, non-substantive edits consistent with current conventions of rule drafting.

## **II. Contents of the Rule Petition**

### **A. Rules of Procedure for the Foster Care Review Boards**

#### **Title. Rules of Procedure for the Local Foster Care Review Boards.**

The title has been changed to reflect the new content.

**Rule 1. Quorum.** The contents of this Rule have been edited for clarity and consistency with current practice.

**Rule 2. Vacancies is changed to Board Review.** The contents of the current Board Review (Rule 5) are moved here, with some edits for clarity and consistency with current practice. We have also changed the requirement in proposed Rule 2(c) that all interested parties present agree to permit “other persons directly concerned with the foster care review board system or with a legitimate interest in the system” to attend a review meeting. We propose substituting *unless an interested party in attendance objects*. Additionally, we

have added a provision prohibiting audio or visual recordings of meetings to protect confidentiality.

**Rule 3. State Board is changed to Voting.** The contents of the current Voting (Rule 6) are moved here. The contents of the State Board Rule are moved to the amended Rules of Procedure for the State Foster Care Review Board (formerly Supplemental Rules).

**Rule 4. Administration is changed to Conflicts of Interest.** The contents of the current Conflicts of Interest (Rule 8) are moved here.

**Rule 5. Board Review is changed to Vacancy.** The contents of the current Vacancies (Rule 2) are moved here.

**Rule 6. Voting is changed to Oath of Office.** The contents of Oath of Office (Rule 7) are moved here.

**Rule 7. Oath of Office is changed to Chairpersons, Duties and Terms of Office.** The contents of this section are taken primarily from Rule 1, Supplemental Rules of the State Foster Care Review Board. Some additional language has been added to place all relevant language in one rule.

**Rule 8. Conflicts of Interest is changed to Administration.** The contents of Administration (Rule 4) are moved here.

## **B. Supplemental Rules of The State Foster Care Review Board**

**Title. Rules of Procedure for the State Foster Care Review Board.** The

title has been changed to reflect the new content.

**Rule 1. Terms of Office-Elections is changed to State Board.** The contents of the new rule combine elements from Rule 3, Rules of Procedure for the Foster Care Review Board, specifically 3(b), and 3(d).

**Rule 2. State Board Terms.** Amendments proposed to this section make terms of local board members appointed to the State Board coterminous with the terms they serve on the local board, except in specified conditions where adjustments are required. There is no longer the requirement that the local board representative be a chairperson on their local board.

**Rule 3. Terms of State Board Officers has been changed to Executive Committee.** The content is moved from current Rules of Procedure for the Foster Care Review Board, Rule 3(a), 3(c) and Rule 4, Supplemental Rules of the State Foster Care Review Board. The proposed rule also contains language from Composition of the Executive Committee (current Rule 4) and eliminates the previous term “*District*” and replaces it with reference to “*County*”.

**Rule 4. Composition of the Executive Committee is changed to Terms of State Board Officers.** The content of this rule is primarily taken from the Current Rule 3. Terms of State Board Officers, State Foster Care Review Board Supplemental Rules,

The proposed rule amendments and rules are attached as Appendix A.

### **III. Pre-Petition Distribution and Comment.**

Because the State Foster Care Review Board does not meet until March 7, 2020, there has been no pre-petition distribution and comment. The petition will be distributed and presented for comment at that meeting.

### **IV. Effective Date of the Proposed New Rules.**

Petitioner respectfully requests that the proposed new rules be adopted at the Court's 2020 Rules Agenda, with an effective date of January 1, 2021.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of January, 2020

By /S/ \_\_\_\_\_  
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# Appendix A

# RULES OF PROCEDURE FOR THE LOCAL FOSTER CARE REVIEW BOARDS

## Rule 1. Quorum

A review will not be conducted with ~~no~~ less than three review board members, ~~unless~~ If circumstances prevent three ~~review~~ board members from being present, and postponement of the ~~case~~ review would cause undue hardship for interested parties or delays in court proceedings, then a review can ~~continue~~ occur with two review board members with and the permission of the review board coordinator, ~~and the review board chairperson.~~ In no ~~case~~ circumstance may a review be conducted with less than two review board members ~~present~~. A member of a local review board may serve as a substitute member on any local review board.

## Rule 2. ~~Vacancies~~ Board Review

~~When a vacancy exists on a review board the presiding juvenile court judge shall appoint a replacement to that review board within 45 days from the date the judge is notified of the vacancy.~~

- (a) If a child is present at a review board meeting, one board member and one staff member may meet privately with the child if it is determined that this would facilitate the child's ability to communicate and participate in the review board meeting.
- (b) A review board may agree to hear any person who formally requests to be heard at the child's case review, as long as the person has some connection with or knowledge of the child or family situation.
- (c) Other persons directly concerned with the foster care review board system or with a legitimate interest in the system may be permitted to attend a review meeting unless an interested party in attendance objects.
- (d) Pursuant to applicable statutes, including but not limited to A.R.S. §8-807 and §8-815.03(2), review board meetings contain confidential information and must not be recorded via audio or visual means. The general public may be excluded from review board meetings and only such persons admitted as have a direct interest in the review. The review board, acting through the Chairperson, may excuse any party from any hearing.
- (e) Notwithstanding the provisions outlined in this rule, the Administrative Director, review board coordinator, and review board staff are authorized to attend all review board meetings.

### Rule 3. State Board Voting

- ~~(a) An executive committee of the State Board shall be created consisting of the chairman, vice chairman, review board coordinator, and up to five other members elected by the board. The executive committee may act on the behalf of the State Board between meetings.~~
  - ~~(b) The state board may appoint such committees as it deems necessary to conduct its business.~~
  - ~~(c) Actions of the executive committee on behalf of the stat foster care review board shall require ratification for continuance by the board.~~
  - ~~(d) The state foster care review board may adopt such other rues not inconsistent with these rues as it deems necessary and expedient in the performance of its duties, subject to the approval of the Supreme Court.~~
- Actions of a review board must be decided by a majority vote.

### Rule 4. Administration Conflicts of Interest

~~The Foster care review board coordinator, acting under the supervision of the Administrative director of the Supreme Court, may adopt such other administrative practices, and procedures not inconsistent with these rules as may be necessary and expedient in the administration of the foster care review board system.~~

- (a) A review board member who is a foster parent may not participate as a board member in the review of a child who is in their care. Such board member may be heard by the board pursuant to Rule 2(b).
- (b) A review board member who during past or present employment made or approved recommendations regarding a child subject to review, may not participate as a board member in the review of that child's case. Such board member may be heard by the board pursuant to Rule 2(b).

### Rule 5. Board Review Vacancy

- ~~(a) A review board may agree to hear any person who formally requests to be heard at the child's case review, as long as the person has some connection with or knowledge of the child or family situation.~~
- ~~(b) Other persons directly concerned with the foster care review board system or with a legitimate interest in the system may be permitted to attend a review meeting if all interested parties present agree.~~

- ~~(c) In the event that the chairman of a review board is unable to attend a review or to perform his duties at any particular time, the vice chairman will exercise the duties of the chairman until such time as the chairman can resume them. If neither the chairman nor the vice chairman is present, the chairman or vice chairman when acting as chairman shall designate a member as acting chairman.~~
- ~~(d) The chairman or those acting in that capacity shall perform such duties as are indicated in these rules or as customarily devolve upon the chairman of a committee.~~
- ~~(e) Pursuant to appropriate statute, in any review the general public may be excluded and only such persons admitted as have a direct interest in the review and the Review Board acting through the Chairman may excuse any party from any hearing.~~
- ~~(f) In the event that a child is present to give information the chairman may ask that one board member or one member and staff assistant meet privately with the child if it is determined that this would facilitate the child's ability to communicate.~~
- ~~(g) Notwithstanding any provisions of this rule, the Administrative Director, review board coordinator or review board staff are authorized to attend all meetings of a foster care review board.~~

The presiding juvenile court judge must appoint a new board member within 45 days of being notified of a vacancy.

#### Rue 6. Voting Oath of Office

~~Actions of a review board shall be decided by a majority vote.~~

After appointment, and before assuming their duties, an individual appointed to a review board must take an oath of office pursuant to A.R.S. § 38-231.

#### Rule 7. Oath of Office Chairpersons; Duties and Terms of Office

~~Persons appointed to a review board shall take an oath of office pursuant to A.R.S. § 38-231.~~

- (a) Local chairpersons and vice-chairpersons are elected for one year. Elections will be held at the first meeting of the local boards following the third Monday in January of each year. If all board positions are not filled at that time, the board may vote to postpone the election until their next meeting. Local chairpersons and vice-chairpersons may be re-elected.

- (b) If the chairperson of a review board is unable to attend a review or perform their duties at any time, the vice-chairperson will act as the chairperson until the chairperson can resume them.
- (c) If both the chairperson, or vice-chairperson when acting as chairperson, are unable to perform their duties, the board must designate a member as acting chairperson.
- (d) The chairperson, or those acting in that capacity, must perform such duties as are indicated in these rules or as customarily devolve upon the chairperson of a committee.

#### Rule 8. Conflicts of Interest Administration

- ~~(a) Review board members who are foster parents may not participate as board members in the review of children who are in their own care. Such members may be heard by the board pursuant to Rule 5-a.~~
- ~~(b) Any review board member who in the course of their past or present employment has made recommendations or approved recommendations regarding a child subject to review may not participate as a board member in the review of that child. Such member may be heard by the board pursuant to Rule 5-a.~~

The Foster Care Review Board Coordinator, acting under the supervision of the Administrative Director of the Supreme Court, may adopt such other administrative practices, and procedures not inconsistent with these rules as may be necessary and expedient in the administration of the foster care review board system.

## SUPPLEMENTAL RULES OF PROCEDURE FOR THE STATE FOSTER CARE REVIEW BOARD

### Rule 1. Terms of Office—Elections State Board

~~Local chairpersons and vice chairpersons are elected for one year. Elections will be held at the first meeting of the local boards following the third Monday in January of each year. In the event that all board positions are not filled at that time, the board may vote to postpone the election until their next meeting. Local chairpersons and vice chairpersons may be re-elected.~~

The State Board may appoint working committees to conduct its business.

- (a) The State Board Chairperson must appoint a chairperson of each working committee.
- (b) Subject to the approval of the Supreme Court, the State Board may adopt other rules it deems necessary and expedient in as much as the rules are not inconsistent with existing Rules.

### Rule 2. State Board Terms

~~Appointment of local chairpersons to the state board from counties having more than one local board shall be for a period of two years, except initially where the Judge shall appoint one half for one year terms and one half for two year terms. Such state board representatives may be reappointed.~~

- (a) A local board member appointed to the State Board must serve a term that is coterminous with that of their local board.
- (b) The length of a board member's state board term may be adjusted to ensure that a large majority of state board member terms do not have the same term expiration date.
- (c) State Board members may be reappointed.

### Rule 3. Terms of State Board Officers—Executive Committee

- (a) An Executive Committee of the State Board is established.

- (b) The Executive Committee must consist of the State Board Chairperson, the State Board Vice-Chairperson, the Review Board Coordinator and up to five other members elected by the State Board.
- (c) The Executive Committee may act on the behalf of the State Board between meetings.
- (d) Actions taken by the Executive Committee on behalf of the State Board must require ratification by the State Board for these actions to continue.
- (e) The composition of the Executive Committee must be:
  - Two State Board members from Maricopa County
  - One State Board member from Pima County
  - Two State Board members from any county other than Maricopa and Pima Counties
  - Two State Board members from any county.

Rule 4. ~~Composition of the Executive Committee~~ Terms of State Board Officers

~~The composition of State Board members on the Executive Committee shall be:~~  
~~Two members from District I~~  
~~One member from District II~~  
~~Two members from any District other than I or II~~  
~~Two members from any District~~

- (a) The State Board Chairperson must be elected for a two-year term. If the State Board Chairperson is serving a local board term with less than two years remaining, their term as State Board Chairperson must be adjusted to be coterminous with their local board term. All other officers of the State Board must have one-year terms.
- (b) All office terms expire on the third Monday in January. An officer will continue to serve until a successor is elected. Elections must be held at the first meeting after the third Monday in January.
- (c) State Board Officers may be reelected.