



# news

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## **Child Welfare Appeals Workgroup delivers report, recommendations to Colorado Supreme Court to ensure appeals are resolved in six months**

DENVER – Appellate delay in child welfare cases is a complex issue that has existed for decades. A set of reforms instituted in 2016 were designed to make significant improvements to this system, but also contributed to cases taking longer to resolve on appeal.

Having reached a crisis point in recent years, the Colorado Supreme Court commissioned the Child Welfare Appeals Workgroup (Workgroup) in 2018 to ensure appeals in relinquishment, adoption and dependency and neglect cases are resolved within six months, as set forth by the General Assembly (§ 19-1-109(3), C.R.S. 2020).

The Group’s charge was to “study, develop, and recommend to the Supreme Court practices, policies, and procedures to implement [statutory] policy goals . . . and to improve the quality of appellate litigation and court handling of appeals in relinquishment, adoption, and dependency and neglect cases.”

The Workgroup’s report was finalized and submitted to the Supreme Court at the end of April 2021 and the Court recently agreed with the recommendations contained therein. Many of the recommendations have already been adopted by the appellate courts.

“We invited stakeholders to join us in examining the delays at each stage of juvenile court and appellate proceedings and to discover opportunities for improvement,” Court of Appeals Judge and Workgroup Chair David M. Furman said. “We assessed the role of incomplete juvenile court records and inconsistent quality of appellate briefing in contributing to appellate delay.”

The stakeholders joined together to share ideas and discuss efforts to ensure quick and

efficient handling of cases to best serve some of the most vulnerable people in Colorado. The stakeholder involvement worked to ensure a balanced report was developed and submitted.

“To improve the quality of appellate litigation, the Workgroup developed recommendations to propagate best practices and expand training of practitioners, judicial officers, and student attorneys,” Judge Furman said. “The Workgroup also produced a successful training program on appellate advocacy for juvenile law practitioners that may serve as a model for future annual training.”

Experientially diverse professionals comprise the 12-member Workgroup with members appointed for two-year terms. They are the *Honorable Richard L. Gabriel*, Colorado Supreme Court liaison to the Workgroup; *Honorable David M. Furman*, Colorado Court of Appeals, Workgroup Chair; *Polly Brock*, Colorado Court of Appeals Clerk of Court and Court Executive; *Sheri Danz*, Deputy Director of the Colorado Office of the Child’s Representative; *Honorable Katherine R. Delgado*, District Court Judge, Seventeenth Judicial District; *Laura Eibsen*, Assistant City Attorney, Denver City Attorney’s Office, Colorado County Attorneys Association; *Korey Elger*, Permanency Manager of the Division of Child Welfare, Colorado Department of Human Services; *Ruchi Kapoor*, Appellate Director of the Office of Respondent Parents’ Counsel (2016 to 2020); *Honorable Ann Gail Meinster*, Presiding Juvenile Court Judge, First Judicial District; *Gretchen Russo*, Judicial and Legislative Administrator, Colorado Department of Human Services; *Shelden Spotted Elk*, Director for Indian Child Welfare Programs until 2021, Casey Family Programs; *Jack Trope*, Senior Director for Indian Child Welfare Programs, Casey Family Programs; and *Alison Young*, Colorado’s Court Improvement Program Coordinator until 2020.

Following its review of the report, the Supreme Court has authorized the continuance of the Workgroup for two more years. As more study and work is needed in this important area, the Court authorized the Workgroup to:

- Monitor the implementation and results of these recommendations and determine if other areas contribute to appellate delay.
- Provide annual appellate training commendations, provide annual training, and study additional areas for improvement.
- Study additional opportunities to reduce delays in child welfare appeals.

**Editor’s Note:** The recommendations made to the Supreme Court follow. The entire report may be accessed [here](#).

- **Recommendation 1:** All stakeholders in the juvenile case ensure that parents and relatives are asked about American Indian and Alaskan Native heritage, that notices are sent to all required tribes, that these notices are accurate and complete, and that all notices and responses are immediately filed in the juvenile court case.
- **Recommendation 2:** All participants and the juvenile courts ensure that ICWA (Indian Child Welfare Act) inquiries are made at every child custody proceeding.
- **Recommendation 3:** Appellate counsel consider moving for a limited remand when noncompliance with ICWA’s inquiry or notice provisions is identified while the appeal is pending.
- **Recommendation 4:** The judicial branch train new judges and court staff on ICWA compliance.
- **Recommendation 5:** The judicial branch prioritize statewide improvement of courtroom technology to ensure an accurate record.
- **Recommendation 6:** The judicial branch provide training to court reporters and transcribers about terminology and acronyms used in juvenile court cases.
- **Recommendation 7:** The judicial branch create a “cheat sheet” for those transcribing hearings for juvenile appeals. This sheet should include commonly used acronyms and phrases used in juvenile court, so transcribers better understand the proceedings, resulting in more accurate transcripts with fewer “inaudible” notations.
- **Recommendation 8:** The Office of Respondent Parents’ Counsel ensure wider distribution and application of the Office of Respondent Parents Counsel training and policies for advisement of parents about their right to appeal and the appellate process.
- **Recommendation 9:** All attorneys of record on the case review the electronically filed record within seven days of receipt of the record to ensure that all transcripts and filings are included. Prompt filing of a motion to supplement the record can minimize delay in the briefing schedule.
- **Recommendation 10:** All appellate attorneys on a case collaborate and communicate regarding perceived problems with the record. Many motions to settle the record, for example, can be resolved through C.A.R. 10(e) statements of the evidence.
- **Recommendation 11:** When a party determines an appellate record is incomplete, the party file a motion to complete the record and promptly contact the juvenile court to allow the court to promptly prepare the record while the Court of Appeals reviews and rules on the motion.
- **Recommendation 12:** The judicial branch create instructions, forms, and samples for appellate briefs and filings submitted under C.A.R. 3.4.
- **Recommendation 13:** The Workgroup provide annual live-streamed and recorded training on appellate advocacy for judicial officers, trial attorneys, and appellate attorneys in child welfare cases about issue preservation, standards of review, and standards of reversal governing child welfare cases. For appellate attorneys, include training on the brief

requirements under the Colorado Appellate Rules. Provide webinars or podcasts to improve access.

- **Recommendation 14:** The Colorado Supreme Court modify C.R.C.P. 205.7(2)(a)(i) to permit law student externs to appear and participate in any civil proceeding before the Colorado Court of Appeals and Colorado Supreme Court.
- **Recommendation 15:** The judicial branch prioritize obtaining additional resources to meet the increasing demands of this case class.
- **Recommendation 16:** The Chief Justice authorize the Workgroup for an additional two years to monitor the implementation and results of these recommendations, provide annual training, and study additional areas for improvement.