

Jim Lee

From: Amanda Glass <aglass@azdisabilitylaw.org>
Sent: Wednesday, February 22, 2023 3:14 PM
To: Jim Lee; newmark@email.arizona.edu
Subject: RE: Petition to Amend Supreme Court Rule 31.3(e), R-23-0009

Mr. Lee,

Thank you. Even with the revised wording, our feedback would be the same—we'd like to either see the "or" after 1(A) removed entirely or changed to "and/or" to make it clear that the non-attorney can represent a party in both the informal dispute resolution situations as well as the formal administrative proceedings, not just one or the other.

Thank you,
Amanda

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Amanda Glass (she/her/hers)
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From: Jim Lee <Jim.Lee@staff.azbar.org>
Sent: Wednesday, February 22, 2023 1:33 PM
To: Amanda Glass <aglass@azdisabilitylaw.org>; newmark@email.arizona.edu
Subject: RE: Petition to Amend Supreme Court Rule 31.3(e), R-23-0009
Importance: High

Thank you for taking the time to review my proposal and providing your comments.

After once again reviewing my proposal, I concluded that the use of romanette numbers (*i.e.*, (i) and (ii)) is inappropriate because they would typically be applicable only to paragraph (B). Therefore, I have rewritten my proposal below to delete my previous use of (A) and (B) and to replace (i) and (ii) with (A) and (B). I also changed “In” (now in paragraph (B)) to “in” to make it consistent with paragraph (A) and other Supreme Court rules. Please let me know what you think of my modified proposal; I don’t want to inadvertently alter the intended purpose of your proposed rule.

Thanks!

(1) *Children with Disabilities*. A person may represent a party in the following situations if the person has special knowledge or training with respect to the problems of children with disabilities and the person is not charging a fee for representing the party (other than receiving reimbursement for costs):

(A) in any informal conflict resolution method, such as school-based meetings or mediation, regarding matters relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability; or

(B) in any administrative proceeding under 20 U.S.C. §§ 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability a person may represent a party.

Despite these provisions, the hearing officer may order the party to appear only through counsel or in some other manner if he or she determines that the person representing the party is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

Jim Lee, Senior Bar Counsel
T: 602.340.7249 **F:** 602.416.7449

From: Amanda Glass <aglass@azdisabilitylaw.org>
Sent: Wednesday, February 22, 2023 12:21 PM
To: Jim Lee <Jim.Lee@staff.azbar.org>; newmark@email.arizona.edu
Subject: RE: Petition to Amend Supreme Court Rule 31.3(e), R-23-0009

Mr. Lee,

Thank you for reaching out and for your patience on our reply.

We have no problem with your suggested modifications to the language of our proposed rule, except that we would want the “or” between 1(i) and 1(ii) to instead read “and/or,” to ensure it’s clear that a nonattorney advocate could represent the same party in both informal dispute resolution as well as at due process, not just one or the other. With that change, we believe your suggested modifications would not impact the intended purpose of our rule petition and we are in agreement with your wording.

Thank you, and please let us know if you have any questions for us or if we can assist further.

Amanda

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From: Jim Lee <Jim.Lee@staff.azbar.org>
Sent: Monday, February 13, 2023 1:31 PM
To: newmark@email.arizona.edu; Amanda Glass <aglass@azdisabilitylaw.org>
Subject: Petition to Amend Supreme Court Rule 31.3(e), R-23-0009
Importance: High

Ms. Newmark and Ms. Glass,

My name is Jim Lee. I'm a Senior Bar Counsel and Unauthorized Practice of Law (UPL) Counsel at the State Bar of Arizona. My duties as UPL Counsel require me to apply the provisions of Arizona Supreme Court Rules 31, 31.1, 31.2, 31.3 and 33(c). Based on my interest in amendments to the UPL rules, I reviewed your Petition to Amend Rule 31.3(e)(1). I do not have any objection to the purpose or intent behind your proposed amendment. I believe, however, that the structure/format of your proposal could be modified to be more consistent with the structure/format of other Arizona Supreme Court rules.

Set forth below is your proposal and my proposed modification of the structure/format of your proposed rule. I plan to submit a comment to the State Bar's Rules Review Committee regarding the structure/format of your proposed rule, but

would like to note for the Committee whether you have any objection to my proposed structure/format of your proposed rule. My comment to the Committee could eventually be considered by the Board of Governors of the State Bar for submission to the Supreme Court.

If you are inclined to do so, I would appreciate your comments regarding my proposal, especially if you believe my proposed structure/format would in any way alter the intended purpose or intent behind your rule petition.

Thanks!

R-23-0009 Petition to Amend Rule 31.3(e)(1)

Rule 28 proposal:

(1) *Children with Disabilities*. A person may represent a party:

(A) in any informal conflict resolution method, such as school-based meetings or mediation, regarding matters relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability if:

1. the person as special knowledge or training with respect to the problems of children with disabilities; and
2. the person is not charging a fee for representing the party (other than receiving reimbursement for costs);

(B) In any administrative proceeding under 20 U.S.C. §§ 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability a person may represent a party if:

1. the person as special knowledge or training with respect to the problems of children with disabilities; and
2. the person is not charging a fee for representing the party (other than receiving reimbursement for costs).

Despite these provisions, the hearing officer may order the party to appear only through counsel or in some other manner if he or she determines that the person representing the party is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

Suggested language:

(1) *Children with Disabilities*. A person may represent a party in the following situations if (A) the person has special knowledge or training with respect to the problems of children with disabilities; and (B) the person is not charging a fee for representing the party (other than receiving reimbursement for costs):

(i) in any informal conflict resolution method, such as school-based meetings or mediation, regarding matters relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability; or

(ii) In any administrative proceeding under 20 U.S.C. §§ 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability a person may represent a party.

Despite these provisions, the hearing officer may order the party to appear only through counsel or in some other manner if he or she determines that the person representing the party is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.



Jim Lee, Senior Bar Counsel/Unauthorized Practice of Law Counsel

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