

RULE 55. ADMIT/DENY HEARING - PERMANENCY OR TERMINATION OF PARENTAL RIGHTS**Rule 55.01. Generally**

An admit/deny hearing is a hearing at which the statutory grounds set forth in the petition are admitted or denied pursuant to Rule 56.

Rule 55.02. Timing

An admit/deny hearing shall be held not less than 10 days after service of the summons and petition upon the parties. In a permanency or termination of parental rights matter ordered under Rule 43, subdivision 9(b), the admit/deny hearing shall be held within 10 days of the filing of the petition. Additionally, the admit/deny hearing shall be held within the timelines required by Minnesota Statutes, section 260C.507. In matters governed by the Indian Child Welfare Act, an admit/deny hearing shall not be held until the provisions of Rule 30.01, subdivision 3, are met.

Rule 55.03. Hearing Procedure

Subd. 1. Initial Procedure. At the commencement of the hearing the court shall on the record:

(a) verify the child's name, date of birth, race, gender, current address unless stating the address would endanger the child or seriously risk disruption of the current placement, and, if the child is believed to be an Indian child, the name of the child's tribe;

(b) pursuant to Rule 29, inquire whether the child is an Indian child and, if so, determine whether the Indian child's tribe, parent, and Indian custodian have been notified;

(c) determine whether all parties are present and identify those present for the record;

(d) advise any child and the child's parent or legal custodian who appears in court and is not represented by counsel of the right to representation pursuant to Rule 36;

(e) determine whether notice requirements have been met and, if not, whether the affected person waives notice;

(f) if a child who is a party or the child's parent or legal custodian appears without counsel, explain basic trial rights as listed in Rule 58.02, subdivision 2(a);

(g) determine whether the child and the child's parent or legal custodian understand the statutory grounds and the factual allegations set forth in the petition and, if not, provide an explanation;

(h) explain the purpose of the proceeding and the possible transfer of custody of the child from the parent or legal custodian to another, when such transfer is permitted by law and the permanency requirements of Minnesota Statutes, sections 260C.503 to 260C.521;

(i) if the admit/deny hearing is the first hearing in the juvenile protection matter, and if the court knows or has reason to know that the child is an Indian child, determine whether notice has been sent pursuant to Rule 30.01 and 25 U.S.C. section 1912(a);

(j) if the admit/deny hearing is not the first hearing and the determination that the child is an Indian child has not been made as required in Rule 42.08, subdivision 2, attempt to determine whether the child is an Indian child through review of the petition, other documents, and an on-the-record inquiry as required by Rule 29.02. If the court is unable to determine whether the child is an Indian child, the court shall direct the petitioner to make further inquiry and provide to the court and parties additional information regarding whether the child is an Indian child;

(k) if the court finds from review of the petition or other information that an Indian child is a ward of tribal court, pursuant to Rule 31.02, subdivision 1, adjourn the hearing to consult with the tribal court regarding the safe and expeditious return of the child to the jurisdiction of the tribe and dismiss the juvenile protection matter;

(l) attempt to determine the applicability of the Indian Child Welfare Act, 25 U.S.C. sections 1901–1963, based on the information received from the tribe or tribes required to receive notice pursuant to 25 U.S.C. section 1912(a). The court shall order the petitioner to make further inquiry of the tribe or tribes until the court can determine whether the Indian Child Welfare Act applies; and

(m) in a permanency matter other than a termination of parental rights matter, advise all persons present that at the conclusion of the permanency proceedings, the court will:

(1) order the child returned to the care of the parent or guardian from whom the child was removed; or

(2) if it is in the child's best interests, order a permanency disposition or a termination of parental rights; or

(n) in a termination of parental rights matter, advise all persons present that:

(1) if the court determines that the child is in need of protection or services, the court will either enter or withhold adjudication pursuant to Rule 50 and schedule further proceedings pursuant to Rule 51; and

(2) if the court finds that one or more statutory grounds set forth in the termination of parental rights petition are proved, the court may terminate parental rights.

Subd. 2. Initial Determinations. (a) After completing the initial inquiries set out in Rule 55.03, subdivision 1, the court shall review the facts set forth in the petition, consider any arguments made by the parties, and determine whether the petition states a prima facie case in support of one or more of the permanent placement options. If the child is an Indian child, the court shall apply Rules 28–31 and the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(b) When the petition alleges that reasonable efforts, or active efforts in the case of an Indian child, have been made to reunify the child with the parent or legal custodian, the court shall make a separate finding regarding whether the factual allegations contained in the petition state a prima facie case that the agency has provided reasonable efforts, or active efforts in the case of an Indian child, to reunify the child and the parent or legal custodian. In the alternative, the court may make a finding that reasonable efforts to reunify the child and the parent or legal custodian were not required under Minnesota Statutes, section 260.012.

(c) If the court determines that the petition states a prima facie case in support of termination of parental rights, the court shall proceed pursuant to Rule 56. If the court determines that the petition fails to state a prima facie case in support of termination of parental rights, the court shall:

(i) return the child to the care of the parent or legal custodian;

(ii) give the petitioner 10 days to file an amended petition or supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case in support of termination of parental rights;

(iii) give the petitioner 10 days to file a child in need of protection or services petition; or

(iv) dismiss the petition.

2019 Advisory Committee Comment

Rule 55 is added in 2019 as part of a revision of the Rules of Juvenile Protection Procedure. The rule is the counterpart to Rule 46 for permanency and termination of parental rights matters.