

# Engaging Youth in the Court Process: Idaho Juvenile Rules 40

## Training Curriculum

Idaho Juvenile Rule 40:

IN RE: IDAHO JUVENILE RULES )  
(I.J.R.) AMENDING RULE 40 ) ORDER  
\_\_\_\_\_)

The Court having reviewed a recommendation from the Child Protection Committee and the Administrative Conference to amend I.J.R. 40 to read as follows, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED, that I.J.R. 40 is amended as follows:

**RULE 40. NOTICE OF FURTHER PROCEEDINGS INCLUDING PARENTS, FOSTER PARENTS AND OTHERS (C.P.A.)**

(a) After the adjudicatory hearing, any person who is designated by the Department of Health and Welfare as the foster parent, as a preadoptive parent, or as a relative providing care for a child who is in the custody of the department, shall be provided with notice of, and have a right to be heard in, any further hearings to be held with respect to the child. This provision shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the proceeding solely on the basis of such notice and right to be heard. The Department of Health and Welfare shall provide this notice and shall confirm to the court that the notice was given.

(b) After the adjudicatory hearing, a child eight (8) year of age or older, shall be provided with notice of, and have a right to be heard, either in person or in writing, in any further hearings to be held with respect to the child. The Department of Health and Welfare shall provide this notice and shall confirm to the court that the notice was given.

(c) Notice to any party of the time, date, and place of further proceedings after an initial appearance or service of summons may be given in open court, by written acknowledgment of receipt, or by mail to any party. Notice shall be sufficient if the clerk deposits the notice in the United States mail, postage prepaid, to the address provided by the party to the court or the address at which the party was initially served, and files a certificate of such service, or if notice is sent by registered or certified mail.

(d) The notice of hearing shall conform to the following format:

## Why Child Involvement in Court is Good

- Children in Foster Care often feel disconnected
- Helps Build Self-Efficacy Skills-Self Efficacy is defined as a person's own belief in his/her capabilities to organize and execute the courses of action required to produce a given goal.
- Provides Building Blocks for Self-Motivation
- Helps Foster Children Gain a Sense of Control
- Reminds Court Participants the Importance of Their Work

Table 1-Barriers for Child Participation

Barrier	Percent
Transportation	6
Court Congestion	19
Professionals feel speech is restricted	13
Children may become upset	25
Children will miss school	6
Agencies coming on board	25
Attorney for child coming on board	6

( 2008 Judicial Institute Training)

Table 2- Significant Outcomes of Child Participation

Outcome	Percent
Better fact finding, better decisions, better outcomes	68
Children feel better about themselves	28
Children hear and see things that maybe harmful	4
Court process slows down	0

(2008 Judicial Institute Training)

## Child Development

The developmental of children sheds light in the context of appearing in court and participating in court proceedings.

## Older Youth Developmental Considerations

Development	Considerations
Sense of Control	<ul style="list-style-type: none"><li>• Desires control over most aspects of life</li><li>• Understand limits of own control</li><li>• Comes to terms with not having control over others, including authority figures</li></ul>
Independence	<ul style="list-style-type: none"><li>• Begins taking care of self</li><li>• Wants to make own decisions</li><li>• Wants input but does not always want others to know it</li></ul>
Self-Regulation	<ul style="list-style-type: none"><li>• Develops ability to regulate emotions</li><li>• Continues to need help from others but can ask for this help</li></ul>
Empathy	<ul style="list-style-type: none"><li>• Gains ability to put self in the shoes of others</li><li>• Gains understanding of chain of events that lead to different life consequences</li></ul>
Thought Process	<ul style="list-style-type: none"><li>• Grasps the Bigger picture</li><li>• Understands hidden meaning</li><li>• Becomes more idealistic</li><li>• Becomes more logical</li></ul>
Connections	<ul style="list-style-type: none"><li>• Struggles for independence, but secure relationships serve as foundation for future relationships</li></ul>

(National CASA Curriculum)

# **Defense Mechanisms**

Defense mechanisms, are defined as ways in which we behave or think to better protect or “defend” ourselves. Defense mechanisms are one way of looking at how people distance themselves from a full awareness of unpleasant thoughts, feelings and behaviors. Psychologists have categorized defense mechanisms based upon how primitive they are. The more primitive a defense mechanism, the less effective it works for a person over the long-term. However, more primitive defense mechanisms are usually very effective short-term, and hence are favored by many people and children especially (when such primitive defense mechanisms are first learned). Most defense mechanisms are fairly unconscious – that means most persons do not realize that they are using them in the moment (John M. Grohol, Psy.D)

## **Primitive Defense Mechanisms**

### **1. Denial**

Denial is the refusal to accept reality or fact, acting as if a painful event, thought or feeling did not exist. It is considered one of the most primitive of the defense mechanisms because it is characteristic of early childhood development.

### **2. Regression**

Regression is the reversion to an earlier stage of development in the face of unacceptable thoughts or impulses. For an example an adolescent who is overwhelmed with fear, anger and growing sexual impulses might become clingy and start exhibiting earlier childhood behaviors he has long since overcome, such as bedwetting.

### **3. Acting Out**

Acting Out is performing an extreme behavior in order to express thoughts or feelings the person feels incapable of otherwise expressing. Instead of saying, “I’m angry with you,” a person who acts out may instead throw a book at the person, or punch a hole through a wall. Self-injury may also be a form of acting-out, expressing in physical pain what one cannot stand to feel emotionally.

### **4. Dissociation**

Dissociation is when a person loses track of time and/or person, and instead finds another representation of their self in order to continue in the moment. A person who dissociates often loses track of time or themselves and their usual thought processes and memories. People who have a history of any kind of childhood abuse often suffer from some form of dissociation.

### **5. Compartmentalization**

Compartmentalization is a lesser form of dissociation, wherein parts of oneself are separated from awareness of other parts and behaving as if one had separate sets of values. An example might be an honest person who cheats on their income tax return and keeps their two value systems distinct and un-integrated while remaining unconscious of the cognitive dissonance.

### **6. Projection**

Projection is the misattribution of a person’s undesired thoughts, feelings or

impulses onto another person who does not have those thoughts, feelings or impulses.

### **7. Reaction Formation**

Reaction Formation is the converting of unwanted or dangerous thoughts, feelings or impulses into their opposites. For instance, a woman who is very angry with her boss and would like to quit her job may instead be overly kind and generous toward her boss and express a desire to keep working there forever. She is incapable of expressing the negative emotions of anger and unhappiness with her job, and instead becomes overly kind to publicly demonstrate her lack of anger and unhappiness.

### **Less Primitive, More Mature Defense Mechanisms**

Less primitive defense mechanisms are a step up from the primitive defense mechanisms in the previous section. Many people employ these defenses as adults, and while they work okay for many, they are not ideal ways of dealing with our feelings, stress and anxiety. If you recognize yourself using a few of these, don't feel bad – everybody does.

### **8. Repression**

Repression is the unconscious blocking of unacceptable thoughts, feelings and impulses. The key to repression is that people do it unconsciously, so they often have very little control over it.

### **9. Displacement**

Displacement is the redirecting of thoughts feelings and impulses directed at one person or object, but taken out upon another person or object.

### **10. Intellectualization**

Intellectualization is the overemphasis on thinking when confronted with an unacceptable impulse, situation or behavior without employing any emotions whatsoever to help mediate and place the thoughts into an emotional, human context.

### **11. Rationalization**

Rationalization is putting something into a different light or offering a different explanation for one's perceptions or behaviors in the face of a changing reality.

### **12. Undoing**

Undoing is the attempt to take back an unconscious behavior or thought that is unacceptable or hurtful. For instance, after realizing you just insulted your significant other unintentionally, you might spend the next hour praising their beauty, charm and intellect.

### **Mature Defense Mechanisms**

Mature defense mechanisms are often the most constructive and helpful to most adults, but may require practice and effort to put into daily use. While primitive defense mechanisms do little to try and resolve underlying issues or problems, mature defenses are more focused on helping a person be a more constructive component of their environment. People with more mature defenses tend to be more at peace with themselves and those around them.

### **13. Sublimation**

Sublimation is simply the channeling of unacceptable impulses, thoughts and emotions into more acceptable ones.

#### **14. Compensation**

Compensation is a process of psychologically counterbalancing perceived weaknesses by emphasizing strength in other arenas.

#### **15. Assertiveness**

Assertiveness is the emphasis of a person's needs or thoughts in a manner that is respectful, direct and firm.

(John M. Grohol, Psy.D)

## **Child/Court Participation:**

### Inviting and preparing children for court:

#### Procedures prior to hearing

Procedures for preparing the youth for the court hearing:

1. According to IJR 40 the IDHW is responsible for providing formal notification to children.

Guardian Ad Litem procedures:

1. The Guardian Ad Litem shall determine that the child:
  - i. Has been notified
  - ii. provide a written letter to the child from the court

*\*\*youth should be notified within 2 weeks scheduled hearing, GAL letters should be delivered at this time as well*

The Guardian Ad Litem should determine whether the youth wants to attend court:

1. Explain the importance of the youth's input .
2. Address the youth's concerns or fears about attending court, if any.
3. Consult with the youth's therapist, if any, to determine if there are any concerns with the youth attending the court hearing.

If the youth does not want to attend court the Guardian Ad Litem shall

1. Provide the youth with alternatives to attendance, i.e, writing a letter, telling the Guardian Ad Litem or Youth Attorney (if appointed) their expressed wishes.

If the youth chooses to attend their hearing the Guardian Ad Litem

2. The Guardian Ad Litem should inform the Youth that he/she may have to wait for their hearing and that they are welcome to bring school work if they chose and that a room is provided to them for waiting.
3. The Guardian Ad Litem is responsible for letting children know who will be

- present at the hearing and what their roles are.
4. Determine whether the youth wants a supportive person present during the hearing.
  5. Re-affirm with the youth the role of a guardian ad litem and that guardians ad litem advocate for the youth's best interests.
  6. Let the youth know what the recommendation is in the GAL's report to the court.
  7. Discuss what procedures are expected to happen.
  8. Review questions that the court will ask of the youth. (*the letter from the Judge should be reviewed here*)
  9. Respond to the youth's questions about the hearing.
  10. The GAL will include in the report to court whether the youth will attend the hearing and any accommodations that should be made.
  11. Confirm that arrangements have been made to bring the youth to the hearing.

#### At the Hearing:

1. As a preliminary matter, inform the court on which cases youth are present (*the GAL should let the GAL Supervisor know who will be in court*)
2. Allow the youth the right to be heard, determine whether the youth should remain for rest of the hearing or be excused
3. If the youth doesn't want to speak to the court, The GAL or youth attorney should be prepared to tell the judge what the youth wants him/her to know.

#### Debrief the youth after the hearing:

1. Guardian Ad Litem/Youth attorney will meet with the youth after the hearing to talk about what happened during the hearing.
2. Allow the youth to ask questions.
3. Ensure the youth understands what happened, when the next court hearing is, and what is going to happen between now and then.
4. Review the court's ruling with the youth.
5. Contact the caregiver after the hearing to inform them of anything that happened during the hearing that may have impacted the youth.
6. Contact the youth's therapist to provide information that might be relevant to the youth's treatment.



## Ethical Considerations for Guardians Ad Litem

- The Guardian Ad Litem has the responsibility of presenting to the court recommendations that support the ***child's best interest***. Guardians Ad Litem have the responsibility of not only ensuring that their recommendations are based on fact and best interest they have the added responsibility of informing the child of their main purpose and role. Should a distinct conflict arise between the youth and Guardian Ad Litem the Guardian Ad Litem should have an attorney appointed to the youth or if one is appointed let the youth know that their attorney is there to assist them with their expressed wishes.
- Guardians Ad Litem cannot promise that a child's comments, letters or representations to the Guardian Ad Litem will be held in confidence. If a child wants to know if their parents, guardian, etc. will hear, read what they say the Guardian must let the child know that they will and that they cannot meet with the Judge alone.
- When speaking with therapists, foster parents, relative placements in regards to court hearing, the GAL can only state that the hearing was, i.e. difficult, emotional, hard on the youth, the GAL cannot provide details of the court hearing or what was said by the parties.
- **Remember**; youth and youth attorney contact is privileged, the Guardian Ad Litem has no right to be present for those meetings or be informed of such communications.

## Communication

Listed are a few key points to know when communicating with youth about court

- When meeting with youth in regards to upcoming hearings; be careful not to lead or coach children when preparing letters or comments to the court.
- Remember court can be scary and intimidating to the youth, refer to the Judge's letter quite often and allow the youth to read it out loud to you.
- Youth will more than likely be more confident when they know what to expect go over procedures, who will be there, what it will look like; draw a picture if it will help. Remember to use youth friendly words, no legal language or acronyms.

## Resource List

Grohol, John M Psy.D. 15 Common Defense Mechanisms

<http://psychcentral.com/lib/2007/15-common-defense-mechanisms/3/>

Permanent Judicial Commission on Justice for Children, New York State, 2008,  
Tools of Engaging Children in Their Court Proceedings

National Court Appointed Special Advocates Association, 2007, National CASA  
Volunteer Training Curriculum, ISE