

ORAP COMMITTEE 2026
August 20, 2026

Substantive Agenda

The committee received the attached comments from Youth, Rights and Justice regarding the amendments addressed in Proposal #15 (intended to streamline the requirements for excerpts of record). The comments have been forwarded to the appropriate workgroup for their suggestions (Judge Kamins, Ernest Lannet, Ryan Kahn, Julie Smith, and Travis Eiva). Once their suggestions are complete, they will be posted for the committee on Monday, August 17, 2026.

Youth, Rights & Justice

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July 17, 2026

Members of the ORAP Committee:

Youth, Rights & Justice is a non-profit law firm with an Oregon public defense contract to represent children, parents, and youth in juvenile dependency, termination of parental rights, and delinquency appeals. Based on our decades of experience with these cases, we are concerned that the proposed amendments to the rules on excerpts of record will result in an increased workload for our staff that does not efficiently provide a systemic benefit.

Our concerns stem from the proposed changes to ORAP 5.50(2)(c), which would require the excerpt of record to include “[a]ll parts of the record relevant for deciding the appeal, including (i) all parts of the trial court record cited or referenced in the briefs, and (ii) any transcript pages a party believes to be central to the issue on appeal.” Juvenile dependency and termination of parental rights (TPR) cases generally must be decided based on the totality of the circumstances. Therefore, if all parts of the record *relevant* for deciding the appeal must be included in the excerpt, then it appears that the court would be expecting parties to include in the excerpt the entire transcript, all exhibits, as well as the relevant documents from the legal file.

These records are frequently hundreds or even thousands of pages long. Including all relevant documents would mean an extremely bulky excerpt of record. Such an excerpt of record often would be too large to file as a single document in ACMS, requiring it to be broken into parts for separate filings. There does not appear to be any guidance in the proposal about how to do that. There is also no guidance on how video or audio exhibits would be filed as part of an excerpt of record.

If the intent of the proposed change to ORAP 5.50(3) is that only the pages from the record that are *cited* by a party in their brief would be included in the excerpt, it would be helpful to have that clarified. However, it seems that this could create such a disjointed excerpt as to be ineffectual for the court. Many individual pages from transcripts or exhibits, spliced together in a massive excerpt of record, would inevitably leave out context and require competing supplemental excerpts of record from other parties that include more pages. This would increase the quantity of duplicative material that the appellate court must sift through.

Regardless of whether the intent is that complete or partial versions of the transcript and exhibits be included in dependency or TPR cases, the final significant problem with the

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proposed changes to ORAP 5.50 would come with the existing requirement that the documents in an excerpt of record all be organized in chronological order, with a table of contents. In many dependency or TPR cases, the PDF trial court files transmitted to the Court of Appeals, including exhibit files, will include dozens or even hundreds of relevant documents that are not organized chronologically. To extract all documents separately and reorganize them all chronologically into different combined pdf file(s) would require many hours of additional work for our paralegals and attorneys in preparing these already-complex briefs for filing. Under our contract with the Oregon Public Defense Commission (OPDC), our office generally does not receive additional compensation from OPDC for extra work that we must do in individual cases.

In sum, the proposed changes to the rules for excerpts of record would require a great deal of additional unfunded work for appellate public defense providers in juvenile cases. In the end, we believe this extra work would only create enormous, unwieldy documents that would likely be no more useful to the Court of Appeals than the original versions of the transcript and trial court files could be, if different amendments were made to the rules.

Regarding the transcript, after the proposed amendments to ORAP 3.35(2)(b) requiring page numbers of the transcript to be the same as the page numbers of the pdf file, it is unclear to us what problem would remain with the utility of the court's current access to the transcript in its own records. We do not understand how requiring the transcript in a TPR brief excerpt because it is "relevant" to deciding the appeal would provide significant added benefit to the court, when the same document would already be accessible in the court's file.

The more significant workload issue, however, is related to the trial court file and exhibits. If the problem to be addressed is the court's difficulty in finding particular documents in massive trial court files, that could be remedied by a rule that requires citation in the briefs to the PDF page number of the trial court file volume as transmitted to the Court of Appeals, rather than citing to the exhibit number and page within that exhibit. For example, "TCF Vol 1 at 346." Such a naming convention could be further facilitated by appellate court staff renaming multiple volumes of electronic trial court files in a standard way before disseminating them to attorneys. Requiring parties to cite to the PDF page number of the electronic trial court files transmitted to the court would provide a much simpler and more efficient solution to the problem of locating particular sources.

At minimum, if the court is *not* intending that all the exhibits and transcript be included in the excerpt(s) in "totality of the circumstances" dependency and TPR cases, that clarity could be provided in the rule by changing the phrasing of the rule. For example, the phrase "All parts of

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the record relevant for deciding the appeal,” could be changed to “The following parts of the record:”.

Even better, from our perspective, would be to combine all subsections of proposed ORAP 5.50(2)(c) into a single requirement in subsection (c) that the excerpt of record include “Any parts of the trial court record or transcript pages a party believes to be central to an issue on appeal.” It seems to us that this would allow for a concise excerpt of record most likely to be useful to the court while not creating unnecessary work for parties.

In conclusion, we respectfully request that the proposed changes to ORAP 5.50(2)(c) not be adopted and that the Committee instead adopt alternative solutions to the court’s underlying concerns that are more efficient and do not create significant unpaid workload increases for public defenders.

Sincerely,

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