

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING AGENDA**

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
December 7, 2018 – 12:00 p.m. to 2:00 p.m.

12:00	Welcome and Approval of Minutes	Discussion / Action	Tab 1	Judge Pullan
12:05	HR 590 – Interns and Work Conflicts - <i>Continued discussion of new proposed HR policy to address intern conflicts.</i>	Discussion / Action	Tab 2	Justice Himonas Nancy Sylvester
12:40	Rules back from public comment: - <i>CJA 1-205 (IDC and commissioner on committees) – ONE COMMENT</i> - <i>4-202.02 (juvenile abstracts as “private”) – NO COMMENTS</i> - <i>4-508 (standing committee on forms approves form for motion to waive fees) – NO COMMENTS</i> - <i>Appendix I (“Criminal investigations” as “Public unless otherwise ordered”) – NO COMMENTS</i>	Discussion / Action	Tab 3	Michael Drechsel
12:45	Court Commissioner Conduct Committee - <i>Rule 3-201.02 (and Rule 3-201, as necessary) – review draft language prepared as result of last meeting discussions</i>	Discussion / Action	Tab 4	Michael Drechsel
1:20	HR 480 – Employee Exercise Policy (draft)	Discussion	Tab 5	Michael Drechsel
1:45	Election of Chair for 2019	Discussion / Action		Judge Pullan
2:00	Adjourn			

COMMITTEE WEB PAGE: <https://www.utcourts.gov/utc/policyplan/>

UPCOMING MEETING SCHEDULE:

Meetings are held at the Matheson Courthouse in the Judicial Council Room (N301), on the first Friday of each month from 12:00 noon to 2:00 p.m. (unless otherwise specifically noted):

January 4, 2019

February 1, 2019 – **2nd Floor Board Room (N231)**

March 1, 2019 – **2nd Floor West Conference Room (N213)**

April 5, 2019

May 3, 2019 – **1st Floor Large Conf. Room (W19A) – 9:00 a.m. to 5:00 p.m.**

June 7, 2019

August 2, 2019

September 6, 2019

October 4, 2019

November 1, 2019 – **9:00 a.m. to 5:00 p.m.**

December 6, 2019

TAB 1

Minutes from November 2, 2018

NOTES:

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING MINUTES**

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
November 2, 2018 – 9:00 a.m. to 3:00 p.m.

DRAFT

MEMBERS:

	PRESENT	EXCUSED
Judge Derek Pullan, <i>Chair</i>	•	
Judge Kevin Allen		•
Judge Augustus Chin (arrived at 11:00)	•	
Judge Ryan Evershed (via phone 11:27 to 14:18)	•	
Judge John Walton	•	
Mr. Rob Rice	•	

GUESTS:

John Bell
Jim Peters
Tom Langhorn
Rick Schwermer
Jacey Skinner
Brent Johnson
Nancy Sylvester
Rob Parkes
Jessica Van Buren

STAFF:

Michael Drechsel
Minhvan Brimhall (recording secretary)

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed the committee members to the meeting. At the commencement of the meeting, there was not a quorum to make and vote upon motions. As a result, review of the meeting minutes from October (and any other matters requiring a quorum) was postponed until later in the meeting.

(2) RULE 4-405 – JUROR AND WITNESS FEES:

John Bell reported that this rule required revisions to address changing business practices. State Finance changed the per diem rate to \$5.00. Mr. Bell proposed that the current rule be updated to reflect this change. The proposed changes would also clarify that the rate was “not to exceed state per diem rate.” The committee discussed additional language changes to rule 4-405 to further reflect alignment with current business practice. The changes also provide clarification for the issuance of payment of juror and witness fees and expenses. Payment will be processed and completed within 10 days of the juror and/or witness date. The committee asked questions of Mr. Bell to better understand the implications of the proposed changes.

With no quorum present, the committee tabled the matter for further discussion and possible vote when a quorum was present.

(3) RULE 3-403 – JUDICIAL BRANCH EDUCATION:

The committee welcomed Jim Peters and Tom Langhorn to the meeting. Mr. Peters discussed proposed changes to rule 3-403 in regards to the number of training hours required of justice court clerks. The current rule states that justice court clerks need 10 hours. Justice court clerks are employed by counties / municipalities, while district

court clerks are employees of the court. Mr. Peters would like to develop a program that would allow justice court clerks to get the same amount of training as district court clerks. The current policy needs clarification on required training hours for justice court clerk staff.

The committee recommended distinguishing between state employees and local employees as a means to distinguish differences between required training hours. The committee discussed changing the language to read: "All court staff employed by local government shall complete 20 hours of approved coursework." The committee also discussed language changes to clarify the certification and reporting location of justice court training on an annual basis.

Mr. Peters will meet with the court administrators to discuss the recommended changes made by this committee. Mr. Peters will return at the next meeting to provide this committee with an update. The matter was tabled until that time.

(4) RULE 4-202.02 – RECORD CLASSIFICATION (TABLE FORMAT)

Mr. Drechsel sought clarification regarding a project that had started prior to Mr. Drechsel's employment with the Courts. The committee re-affirmed that it wanted to move forward with creating a convenience version of Rule 4-202.02 that is formatted in a table layout. Mr. Drechsel was assigned to finalize preparations of the table-based version of the rule so that it can be added to the code website. Because this version is solely for convenience and merely restates the actual rule, no further process is required on this matter.

(5) RULES 3-201.02 / 3-201 – COMMISSIONER CONDUCT RULES:

The committee welcomed Mr. Rick Schwermer and Ms. Jacey Skinner to the meeting. They discussed potential proposed changes to the commissioner complaint process. Currently there are two different processes for complaints, one for formal complaints and one for informal complaints. The need to make changes to rule 3-201.0 and 3-201 is to provide clarification on the types of complaints filed against a commissioner and who addresses those complaints. Ms. Skinner reported that commissioners are often times aware that a complaint has been filed against them, but do not have clear knowledge of the complaint and who is addressing the complaint. Mr. Schwermer stated that commissioners are court employees and are not under the jurisdiction of the Judicial Conduct Commission, and therefore the complaint process would not be processed by the JCC, nor should the process necessarily be the same. Ms. Skinner described the details of the current process and procedures.

The committee discussed distinctions between informal and formal complaints against a commissioner. The committee discussed who is best situated to address a complaint. The committee discussed the possibility of having two complaint processes, one to address ethical complaints, and the other to address administrative/performance complaints. Judge Pullan stated that a presiding judge should not be a screener for commissioner complaints, but rather that the chairperson of the conduct commission would better serve in this capacity. Judge Pullan noted that ethical complaints are recommended to be addressed by the commissioner's presiding judge. Upon further discussion and consideration, the committee determined that there was not a meaningful way to distinguish between those complaints that might be classified as "ethical" as opposed to "administrative" in nature. All complaints appear to implicate ethical considerations.

The committee discussed specific draft provisions for possible revision of the rule. The committee then instructed Mr. Drechsel to create a draft for further consideration at the next meeting.

(6) APPROVAL OF MINUTES

Judge Chin then arrived at the meeting. With a quorum was present, the committee considered the minutes from the October 5th, 2018 meeting. With no objections or amendments, Mr. Rice moved to approve the draft minutes. Judge Chin seconded the motion. A vote was taken and the motion passed unanimously.

(7) RULE 4-405 – CONTINUED DISCUSSION FROM #2 ABOVE

The committee turned its attention back to this matter. Prior to a vote, Judge Chin was updated by the committee members regarding the information presented by John Bell, as well as the committee's discussions. After reviewing the matter, Judge Walton made motion to recommend to the Judicial Council that the proposed revisions to Rule 4-405 be published for public comment. Mr. Rice seconded the motion. A vote was taken and the motion passed unanimously.

(8) DISCUSSION OF PREVIOUSLY IDENTIFIED RULES WHERE NO CHANGE IS RECOMMENDED / CORRECTION OF MINOR PUNCTUATION:

Mr. Drechsel then briefly updated the committee members regarding several rules that the committee had identified at the October 5th meeting. Mr. Drechsel reported that, after doing further research on these matters, he was recommending to the committee that the rules did not need any revisions at this time. Particular details, as follows:

Rule 3-417: The court is required as a public entity by the ADA to have a procedure to address rules and grievances concerns. The reason this is a public-facing rule and not just an internal policy is so the public can be aware of the information and act accordingly when the situation warrants.

Rules 3-303 and 3-302: Describes the role of the clerks of court. Mr. Drechsel reported that he had made contact with Kim Allard, Jim Peters, and Shane Bahr about any perceived need to amend these rules. None of those individuals believed any changes were warranted at this time.

Rule 3-202: The rule regarding court referees is not implicated by the domestic case tracking pilot currently taking place. No amendment is necessary.

Rule 3-102: Assumption of judicial office. The October review revealed that several commas could be added to the rule. The committee discussed whether it was better to simply make the change, push the changes through the full rulemaking process (even though it was merely three commas), or leave the rule alone. After discussion, it was decided to leave the rule alone.

After a review of all of the above, the committee determined that these rules did not need any revision at this time. No further action was taken by the committee in connection with these matters at this time.

(9) RULE 3-101(4) – JUDICIAL PERFORMANCE STANDARDS

The committee began its discussion of this rule, which deals with the standards for assessing judges. Shortly after beginning this conversation, the committee paused the discussion to accommodate guests who had joined the meeting to discuss the next agenda topic.

(10) RECORDING / PHOTOGRAPHY IN COURTHOUSES

Mr. Brent Johnson was welcomed to the meeting. Mr. Johnson had been invited to discuss a proposed rule to allow for recording or photographing in courthouses. There are three different common scenarios of recording in courthouses: the media; commercial use of the building; and regular patrons of the court. The Management Committee had asked Mr. Johnson to review the current policy and bring a proposed policy to Policy and Planning Committee for review. Mr. Johnson states that one proposal being discussed is to have judges dictate when and where recording should be allowed in their specific courtroom.

Mr. Johnson will conduct additional research on courtroom recording policies, and make additional revision to the proposed rule. Mr. Johnson will return at another date and provide additional information to this committee.

(11) RULE 4-403 – ELECTRONIC SIGNATURE AND SIGNATURE STAMP USE

Judge Evershed joined the meeting via phone just a few minutes into addressing this agenda item. Rule 4-403 allows for court clerks to electronically sign and use signature stamps on behalf of a judge or commissioner on orders and motions, with prior permission of the judge or commissioner. The proposed revisions would permit clerks to sign the equivalent of federal transport orders (i.e., “writs of habeas corpus and prosequendum and testificandum”). This same draft also would permit the use of signature stamps on orders of “domestic relations injunctions” under future URCP 109. The committee discussed the merits of these proposed changes.

After reviewing the matter, Mr. Rice made motion to recommend to the Judicial Council that the proposed revisions to Rule 4-403 be published for public comment. Judge Walton seconded the motion. A vote was taken and the motion passed unanimously.

(12) RULE 4-202.09 – MISCELLANEOUS

Mr. Drechsel discussed that Rule 4-202.09 currently requires parties to label documents that are filed with a classification (private, protected, safeguarded, etc.). Many documents are not being filed with the required designation. Mr. Drechsel stated that e-filing has automated the designations based upon the filing type. The recommendation is that the requirement to classify the record at the top of the page be removed from this rule.

The committee discussed the deletion of this requirement and determined it would be appropriate; however, the Advisory Committee on Civil Procedures should review the entirety of Rule 4-202.09(10) to determine if action should be taken to move those provisions to the Utah Rules of Civil Procedure.

After reviewing the matter, Judge Walton made motion to recommend to the Judicial Council that the proposed revisions to Rule 4-202.09 be published for public comment. Mr. Rice seconded the motion. A vote was taken and the motion passed unanimously.

(13) HR 590 – INTERNS AND WORK CONFLICTS

Ms. Nancy Sylvester discussed HR 590 that addresses the availability of court interns to hold a second job. The current policy does not allow court interns to maintain their current position with the court, while maintaining employment or volunteering in a law firm / other legal work. The proposed HR policy would require interns to screen themselves from cases in which their other employment or volunteer position is associated with the case. If the court intern is employed with a law firm that has presence before the court, the intern will recuse themselves from that case.

Judge Pullan raised concern that there is an automatic conflict of interest for a court intern to continuing to maintain employment with a law firm that appears before court. The court intern will have access to information pertaining to the case. The court intern may be perceived as having unlimited access to the case information, that could be shared with opposing counsel. Members of the committee were concerned about the appearance of conflict.

Mr. Rob Parkes stated that all court interns are subjected to court’s HR policies.

The committee made recommendations for language changes to the proposed policy. Even after the revisions were drafted, the committee was still not convinced that such a policy was advisable. The committee asked Ms.

Sylvester to invite members of the Supreme Court to attend the next committee meeting to help the committee better understand the situation so that a solution might be crafted, if at all possible. Ms. Sylvester agreed to return for the next meeting and will provide updated information to this committee.

(14) RULE 1-205 – STANDING AND AD HOC COMMITTEES

Mr. Drechsel explained that rule 1-205 is currently out for public comment for some earlier-approved revisions. This proposed amendment to Rule 1-205 is to include the court security director to the court facilities planning committee. The current court security director, Mr. Chris Palmer, has been attending these meetings as a non-voting participant. That committee suggested that Mr. Palmer be added as a member of the committee so that he may be able to may provide input and vote.

The committee did not have other additional concerns or questions regarding the proposed amendments. After reviewing the matter, Judge Walton made motion to recommend to the Judicial Council that the proposed revisions to Rule 1-205 be published for public comment. Mr. Rice seconded the motion. A vote was taken and the motion passed unanimously.

(15) RULE 4-508 – GUIDELINES FOR RULING ON A MOTION TO WAIVE FEES

Mr. Drechsel briefly discussed an amendment to rule 4-508. This rule is currently out for public comment on other revisions. This additional amendment would clarify a party filing a motion to waive fees would only need to provide documentation in support of the affidavit if requested by the court. The committee discussed the matter.

After reviewing the matter, Judge Chin made motion to recommend to the Judicial Council that the proposed revisions to Rule 4-508 be published for public comment. Judge Walton seconded the motion. A vote was taken and the motion passed unanimously.

(16) RULE 3-101(4) – CONTINUED DISCUSSION FROM #9 ABOVE

The committee resumed discussion of this item. Rick Schwermer re-joined the committee for this portion of the meeting. Judge Pullan suggested that this committee hold off making any changes to this rule until the committee can better understand the implications of proposing changes. The committee discussed whether the “intent” section of the rule is accurate and drafted language that was more descriptive of the actual intent of the rule. This rule will be brought back in January for further discussion.

(17) RULES 3-103, 3-104, AND 3-111 – PRESIDING JUSTICE COURT JUDGES

Mr. Drechsel reminded the committee that several rules needed to be updated in light of the recent adoption of a rule creating presiding judges in justice courts. These rules had been identified by Judge Pullan as needing attention from the committee for this purpose. The committee discussed minor revisions to each rule that would bring consistency to certain responsibilities of being a presiding judge, regardless of whether the involved court is a district court or a justice court.

After reviewing the matter, Judge Chin made motion to recommend to the Judicial Council that the proposed revisions to Rules 3-103, 3-104, and 3-111 be published for public comment. Mr. Rice seconded the motion. A vote was taken and the motion passed unanimously.

(18) RULES 3-106 AND 3-107 – JUDICIAL COUNCIL OPTIONS ON LEGISLATIVE / EXECUTIVE INITIATIVES

Rule 3-106: clarifies the Judicial Council's ability to endorse, oppose and recommend amendments to, or take no position on Legislative (3-106) and Executive (3-107) matters.

After reviewing the matter, Mr. Rice made motion to recommend to the Judicial Council that the proposed revisions to Rules 3-106 and 3-107 be published for public comment. Judge Chin seconded the motion. A vote was taken and the motion passed unanimously.

(19) RULE 2-208 – PUBLICATION AND DISTRIBUTION OF CJA

Rule 2-208(2) was identified by Judge Pettit prior to her reassignment. The rule appeared to be out of date in requiring the AOC and each TCE to "maintain" a copy of the Code for public access and review. The committee reviewed draft language that would bring the rule into a more modern age where the internet is the primary source of information for the public.

After reviewing the matter, Mr. Rice made motion to recommend to the Judicial Council that the proposed revisions to Rule 2-208 be published for public comment. Judge Walton seconded the motion. A vote was taken and the motion passed unanimously.

(20) RULE 3-501 – INSURANCE BENEFITS UPON RETIREMENT

Rule 3-501 discusses ongoing insurance benefits for retired judges, justices, and commissioners. Judges, justices, and commissioners can qualify for 8 months of coverage if they do not use more than 4 sick leave days in the year. Currently, maternity leave is counted as sick leave. The proposed rule also designates parental leave as sick leave. The proposed language makes the rule more gender neutral. The committee briefly discussed the proposal.

After reviewing the matter, Mr. Rice made motion to recommend to the Judicial Council that the proposed revisions to Rule 3-501 be published for public comment. Judge Walton seconded the motion. A vote was taken and the motion passed unanimously.

(21) RULE 3-109 – ETHICS ADVISORY COMMITTEE

At the last meeting, Judge Pullan identified this rule for a potential revision. Rule 3-109 currently provides the Board of District Court Judges 30 days to request a reconsideration of an ethics opinion. The proposed revision would change this to 28 days, being an amount of time that is divisible by 7 (as many other time period have become over the last several years). During the discussions, the committee determined that there was a need for the time period to be at least 30 full days, so that the Board would have an opportunity to meet prior to the request for reconsideration being required. After discussion, the committee decided to not pursue any change to this rule at this time.

(22) RULE 3-413 – JUDICIAL LIBRARY RESOURCES

Mr. Schwermer and Ms. Jessica Van Buren were welcomed as guests to the meeting. The committee discussed proposed language changes that have been proposed to rule 3-413 to reflect current practices. At the time the rule was created, electronic research resources were not as robust as print publications. The proposed revisions, therefore, also reflect the increasing importance of electronic research resources in court activities. The proposed revisions makes no change to actual current practices.

Ms. Van Buren indicated that the court has electronic access to Westlaw and HeinOnline, as well as other free resources. The committee discussed the need for printed copies, as opposed to electronic copies. Many judges

prefer printed copies. The committee recognized that both types of research materials are important. The committee discussed the proposed revisions in detail.

Following further discussion and additional minor language changes for clarification, Mr. Rice made motion to recommend to the Judicial Council that the proposed revisions to Rule 3-413 be published for public comment. Judge Chin seconded the motion. During this conversation, Judge Evershed was disconnected from the meeting (at approximately 2:20 p.m.). A vote was taken with a quorum still present and the motion passed unanimously.

(23) ADJOURN

The meeting adjourned at approximately 2:38 p.m. The next meeting will be held on December 7th, 2018, starting at 12:00 noon.

DRAFT

TAB 2

HR 590 – Interns and Work Conflicts

NOTES:

INTERNS AND WORK CONFLICTS POLICY 580**Purpose**

The purpose of this policy is to define how the courts treat interns who are engaged in secondary employment and other volunteer activities.

Scope

This policy establishes an exception to the general rule that an individual working for the courts may not engage in other employment and volunteer activities that conflict with the interests of the courts or create the appearance of a conflict of interest.

Policy and Procedure

For purposes of this policy, an extern is the same as an [intern](#).

Interns may engage in other employment and volunteer activities that conflict with the interests of the courts or create the appearance of a conflict of interest as defined in [Sections 500.8](#) and [500.11](#), subject to the following conditions:

1. If an intern has worked or is working on a case currently before the court in the intern's other employment or volunteer work, the intern shall ~~notify the court, and the court shall~~ ~~reuse and be~~ screened ~~the intern~~ from ~~the case~~.
2. If an intern ~~has worked or volunteered for, or~~ is currently working or volunteering for, a law firm or entity that has appeared or is appearing before the court, the intern shall ~~reuse~~ ~~notify the court, and the court shall~~ ~~be~~ screened ~~the intern~~ from any cases involving that law firm or entity.

Commented [MCD1]: What about when the CASES are different, but the underlying ISSUES are consistent / involved?

TAB 3

Rules Back from Public Comment

NOTES:

Rule 1-205. Standing and Ad Hoc Committees.**Intent:**

To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.

To establish uniform terms and a uniform method for appointing committee members.

To provide for a periodic review of existing committees to assure that their activities are appropriately related to the administration of the judiciary.

Applicability:

This rule shall apply to the internal operation of the Council.

Statement of the Rule:**(1) Standing Committees.**

(1)(A) **Establishment.** The following standing committees of the Council are hereby established:

- (1)(A)(i) Technology Committee;
- (1)(A)(ii) Uniform Fine Schedule Committee;
- (1)(A)(iii) Ethics Advisory Committee;
- (1)(A)(iv) Judicial Branch Education Committee;
- (1)(A)(v) Court Facility Planning Committee;
- (1)(A)(vi) Committee on Children and Family Law;
- (1)(A)(vii) Committee on Judicial Outreach;
- (1)(A)(viii) Committee on Resources for Self-represented Parties;
- (1)(A)(ix) Language Access Committee;
- (1)(A)(x) Guardian ad Litem Oversight Committee;
- (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;
- (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;
- (1)(A)(xiii) Committee on Pretrial Release and Supervision; and
- (1)(A)(xiv) Committee on Court Forms.

(1)(B) Composition.

(1)(B)(i) The Technology Committee shall consist of:

- (1)(B)(i)(a) one judge from each court of record;
- (1)(B)(i)(b) one justice court judge;

- (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
- (1)(B)(i)(d) two court executives;
- (1)(B)(i)(e) two court clerks; and
- (1)(B)(i)(f) two staff members from the Administrative Office.
- (1)(B)(ii) The Uniform Fine/Bail Schedule Committee shall consist of:
- (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
- (1)(B)(ii)(b) three district court judges who have experience with a misdemeanor docket;
- (1)(B)(ii)(c) one juvenile court judge; and
- (1)(B)(ii)(d) three justice court judges.
- (1)(B)(iii) The Ethics Advisory Committee shall consist of:
- (1)(B)(iii)(a) one judge from the Court of Appeals;
- (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iii)(d) one juvenile court judge;
- (1)(B)(iii)(e) one justice court judge; and
- (1)(B)(iii)(f) an attorney from either the Bar or a college of law.
- (1)(B)(iv) The Judicial Branch Education Committee shall consist of:
- (1)(B)(iv)(a) one judge from an appellate court;
- (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iv)(d) one juvenile court judge;
- (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
- (1)(B)(iv)(f) one state level administrator;
- (1)(B)(iv)(g) the Human Resource Management Director;
- (1)(B)(iv)(h) one court executive;
- (1)(B)(iv)(i) one juvenile court probation representative;
- (1)(B)(iv)(j) two court clerks from different levels of court and different judicial districts;

- 66 (1)(B)(iv)(k) one data processing manager; and
67 (1)(B)(iv)(l) one adult educator from higher education.
68 (1)(B)(iv)(m) The Human Resource Management Director and the
69 adult educator shall serve as non-voting members. The
70 state level administrator and the Human Resource
71 Management Director shall serve as permanent
72 Committee members.
- 73 (1)(B)(v) The Court Facility Planning Committee shall consist of:
74 (1)(B)(v)(a) one judge from each level of trial court;
75 (1)(B)(v)(b) one appellate court judge;
76 (1)(B)(v)(c) the state court administrator;
77 (1)(B)(v)(d) a trial court executive; and
78 (1)(B)(v)(e) two business people with experience in the
79 construction or financing of facilities.
- 80 (1)(B)(vi) The Committee on Children and Family Law shall consist of:
81 (1)(B)(vi)(a) one Senator appointed by the President of the Senate;
82 (1)(B)(vi)(b) one Representative appointed by the Speaker of the
83 House;
84 (1)(B)(vi)(c) the Director of the Department of Human Services or
85 designee;
86 (1)(B)(vi)(d) one attorney of the Executive Committee of the Family
87 Law Section of the Utah State Bar;
88 (1)(B)(vi)(e) one attorney with experience in abuse, neglect and
89 dependency cases;
90 (1)(B)(vi)(f) one attorney with experience representing parents in
91 abuse, neglect and dependency cases;
92 (1)(B)(vi)(g) one representative of a child advocacy organization;
93 (1)(B)(vi)(h) one mediator;
94 (1)(B)(vi)(i) one professional in the area of child development;
95 (1)(B)(vi)(j) one representative of the community;
96 (1)(B)(vi)(k) the Director of the Office of Guardian ad Litem or
97 designee;
98 (1)(B)(vi)(l) one court commissioner;
99 (1)(B)(vi)(m) two district court judges; and

- 100 (1)(B)(vi)(n) two juvenile court judges.
- 101 (1)(B)(vi)(o) One of the district court judges and one of the juvenile
- 102 court judges shall serve as co-chairs to the committee.
- 103 In its discretion the committee may appoint non-
- 104 members to serve on its subcommittees.
- 105 (1)(B)(vii) The Committee on Judicial Outreach shall consist of:
- 106 (1)(B)(vii)(a) one appellate court judge;
- 107 (1)(B)(vii)(b) one district court judge;
- 108 (1)(B)(vii)(c) one juvenile court judge;
- 109 (1)(B)(vii)(d) one justice court judge; one state level administrator;
- 110 (1)(B)(vii)(e) a state level judicial education representative;
- 111 (1)(B)(vii)(f) one court executive;
- 112 (1)(B)(vii)(g) one Utah State Bar representative;
- 113 (1)(B)(vii)(h) one communication representative;
- 114 (1)(B)(vii)(i) one law library representative;
- 115 (1)(B)(vii)(j) one civic community representative; and
- 116 (1)(B)(vii)(k) one state education representative.
- 117 (1)(B)(vii)(l) Chairs of the Judicial Outreach Committee's
- 118 subcommittees shall also serve as members of the
- 119 committee.
- 120 (1)(B)(viii) The Committee on Resources for Self-represented Parties shall
- 121 consist of:
- 122 (1)(B)(viii)(a) two district court judges;
- 123 (1)(B)(viii)(b) one juvenile court judge;
- 124 (1)(B)(viii)(c) two justice court judges;
- 125 (1)(B)(viii)(d) three clerks of court – one from an appellate court, one
- 126 from an urban district and one from a rural district;
- 127 (1)(B)(viii)(e) one member of the Online Court Assistance
- 128 Committee;
- 129 (1)(B)(viii)(f) one representative from the Self-Help Center;
- 130 (1)(B)(viii)(g) one representative from the Utah State Bar;
- 131 (1)(B)(viii)(h) two representatives from legal service organizations
- 132 that serve low-income clients;

- 133 (1)(B)(viii)(i) one private attorney experienced in providing services
134 to self-represented parties;
- 135 (1)(B)(viii)(j) two law school representatives;
- 136 (1)(B)(viii)(k) the state law librarian; and
- 137 (1)(B)(viii)(l) two community representatives.
- 138 (1)(B)(ix) The Language Access Committee shall consist of:
- 139 (1)(B)(ix)(a) one district court judge;
- 140 (1)(B)(ix)(b) one juvenile court judge;
- 141 (1)(B)(ix)(c) one justice court judge;
- 142 (1)(B)(ix)(d) one trial court executive;
- 143 (1)(B)(ix)(e) one court clerk;
- 144 (1)(B)(ix)(f) one interpreter coordinator;
- 145 (1)(B)(ix)(g) one probation officer;
- 146 (1)(B)(ix)(h) one prosecuting attorney;
- 147 (1)(B)(ix)(i) one defense attorney;
- 148 (1)(B)(ix)(j) two certified interpreters;
- 149 (1)(B)(ix)(k) one approved interpreter;
- 150 (1)(B)(ix)(l) one expert in the field of linguistics; and
- 151 (1)(B)(ix)(m) one American Sign Language representative.
- 152 (1)(B)(x) The Guardian ad Litem Oversight Committee shall consist of:
- 153 (1)(B)(x)(a) seven members with experience in the administration
154 of law and public services selected from public, private
155 and non-profit organizations.
- 156 (1)(B)(xi) The Committee on Model Utah Civil Jury Instructions shall consist of:
- 157 (1)(B)(xi)(a) two district court judges;
- 158 (1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;
- 159 (1)(B)(xi)(c) four lawyers who primarily represent defendants; and
- 160 (1)(B)(xi)(d) one person skilled in linguistics or communication.
- 161 (1)(B)(xii) The Committee on Model Utah Criminal Jury Instructions shall consist
162 of:
- 163 (1)(B)(xii)(a) two district court judges;
- 164 (1)(B)(xii)(b) one justice court judge;
- 165 (1)(B)(xii)(c) four prosecutors;
- 166 (1)(B)(xii)(d) four defense counsel;

- 167 (1)(B)(xii)(e) one professor of criminal law; and
 168 (1)(B)(xii)(f) one person skilled in linguistics or communication.
 169 (1)(B)(xiii) The Committee on Pretrial Release and Supervision shall consist of:
 170 (1)(B)(xiii)(a) two district court judges;
 171 (1)(B)(xiii)(b) one juvenile court judge;
 172 (1)(B)(xiii)(c) two justice court judges;
 173 (1)(B)(xiii)(d) one prosecutor;
 174 (1)(B)(xiii)(e) one defense attorney;
 175 (1)(B)(xiii)(f) one county sheriff;
 176 (1)(B)(xiii)(g) one representative of counties;
 177 (1)(B)(xiii)(h) one representative of a county pretrial services agency;
 178 (1)(B)(xiii)(i) one representative of the Utah Insurance Department;
 179 (1)(B)(xiii)(j) one representative of the Utah Commission on
 180 Criminal and Juvenile Justice;
 181 (1)(B)(xiii)(k) one commercial surety agent;
 182 (1)(B)(xiii)(l) one state senator;
 183 (1)(B)(xiii)(m) one state representative;
 184 (1)(B)(xiii)(n) one member of the Utah Indigent Defense
 185 Commission; and
 186 (1)(B)(xiii)(o) the court's general counsel or designee.
 187 (1)(B)(xiv) The Committee on Court Forms shall consist of:
 188 (1)(B)(xiv)(a) one district court judge;
 189 (1)(B)(xiv)(b) one court commissioner;
 190 (1)(B)(xiv)(c) one juvenile court judge;
 191 (1)(B)(xiv)(d) one justice court judge;
 192 (1)(B)(xiv)(e) one court clerk;
 193 (1)(B)(xiv)(f) one appellate court staff attorney;
 194 (1)(B)(xiv)(g) one representative from the Self-Help Center;
 195 (1)(B)(xiv)(h) the State Law Librarian;
 196 (1)(B)(xiv)(i) the Court Services Director;
 197 (1)(B)(xiv)(j) one member selected by the Online Court Assistance
 198 Committee;
 199 (1)(B)(xiv)(k) one representative from a legal service organization
 200 that serves low-income clients;

Commented [MCD1]: One comment received:

Joanna Landau
 jlandau@utah.gov
 date: 20180928
 GREAT IDEA. But if you want a *particular* staff member rather than a member, the language might say "a person to represent the Utah Indigent Defense Commission, who is designated by the Commission's Chair." Or something to that effect, since only the Director is both staff and "a member."

After reviewing the comment, it would be better to state "the Director of the Indigent Defense Commission or designee"

- (1)(B)(xiv)(l) one paralegal;
- (1)(B)(xiv)(m) one educator from a paralegal program or law school;
- (1)(B)(xiv)(n) one person skilled in linguistics or communication; and
- (1)(B)(xiv)(o) one representative from the Utah State Bar.

(1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each standing committee. Standing committees shall meet as necessary to accomplish their work. Standing committees shall report to the Council as necessary but a minimum of once every year. Council members may not serve, participate or vote on standing committees. Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions and vote. All members designated by this rule may make motions and vote unless otherwise specified. Standing committees may form subcommittees as they deem advisable.

(1)(D) **Committee performance review.** At least once every six years, the Management Committee shall review the performance of each committee. If the Management Committee determines that committee continues to serve its purpose, the Management Committee shall recommend to the Judicial Council that the committee continue. If the Management Committee determines that modification of a committee is warranted, it may so recommend to the Judicial Council.

(1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight Committee, recognized by Section 78A-6-901, shall not terminate.

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad hoc committees may form sub-committees as they deem advisable. Ad hoc committees shall disband upon issuing a final report or recommendations to the Council, upon expiration of the time set for termination, or upon the order of the Council.

(3) **General provisions.**

(3)(A) **Appointment process.**

(3)(A)(i) **Administrator's responsibilities.** The state court administrator shall select a member of the administrative staff to serve as the administrator for committee appointments. Except as otherwise provided in this rule, the administrator shall:

(3)(A)(i)(a) announce expected vacancies on standing committees two months in advance and announce vacancies on ad hoc committees in a timely manner;

(3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from each prospective appointee and information regarding the prospective appointee's present and past committee service;

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective reappointee's service on the committee, the attendance record of the prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

(3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council and report on recommendations received regarding the appointment of members and chairs.

(3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each committee. Whenever practical, appointments shall reflect geographical, gender, cultural and ethnic diversity.

(3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive terms on a committee unless the Council determines that exceptional circumstances exist which justify service of more than two consecutive terms.

(3)(C) **Expenses.** Members of standing and ad hoc committees may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as committee members.

Rule 1-205

DRAFT: 08/17/2018

268 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
269 committees.

270 *Effective May/November 1, 20__*

Rule 4-202.02. Records Classification.

Intent:

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) case number;

- (2)(L)(iv) case status;
- (2)(L)(v) civil case type or criminal violation;
- (2)(L)(vi) civil judgment or criminal disposition;
- (2)(L)(vii) daily calendar;
- (2)(L)(viii) file date;
- (2)(L)(ix) party name;
- (2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;
- (2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;
- (2)(O) name, business address, business telephone number, and business email address of a lawyer appearing in a case;
- (2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;
- (2)(Q) name, business address, and business telephone number of judges;
- (2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;
- (2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;
- (2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;
- (2)(U) order or decision classifying a record as not public;
- (2)(V) private record if the subject of the record has given written permission to make the record public;
- (2)(W) probation progress/violation reports;
- (2)(X) publications of the administrative office of the courts;
- (2)(Y) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;
- (2)(Z) record of the receipt or expenditure of public funds;
- (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;

- 66 (2)(BB) record of formal discipline of current or former court personnel or of a person
- 67 regulated by the judicial branch if the disciplinary action has been completed, and
- 68 all time periods for administrative appeal have expired, and the disciplinary action
- 69 was sustained;
- 70 (2)(CC) record of a request for a record;
- 71 (2)(DD) reports used by the judiciary if all of the data in the report is public or the Judicial
- 72 Council designates the report as a public record;
- 73 (2)(EE) rules of the Supreme Court and Judicial Council;
- 74 (2)(FF) search warrants, the application and all affidavits or other recorded testimony on
- 75 which a warrant is based are public after they are unsealed under Utah Rule of
- 76 Criminal Procedure 40;
- 77 (2)(GG) statistical data derived from public and non-public records but that disclose only
- 78 public data; and
- 79 (2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or information is
- 80 filed charging a person 14 years of age or older with a felony or an offense that
- 81 would be a felony if committed by an adult, the petition, indictment or information,
- 82 the adjudication order, the disposition order, and the delinquency history
- 83 summary of the person are public records. The delinquency history summary
- 84 shall contain the name of the person, a listing of the offenses for which the
- 85 person was adjudged to be within the jurisdiction of the juvenile court, and the
- 86 disposition of the court in each of those offenses.
- 87 (3) **Sealed Court Records.** The following court records are sealed:
- 88 (3)(A) records in the following actions:
- 89 (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the
- 90 conclusion of proceedings, which are private until sealed;
- 91 (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months
- 92 after the conclusion of proceedings, which are private until sealed;
- 93 (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on
- 94 minors; and
- 95 (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
- 96 (3)(B) expunged records;
- 97 (3)(C) orders authorizing installation of pen register or trap and trace device under Utah
- 98 Code Section 77-23a-15;
- 99 (3)(D) records showing the identity of a confidential informant;

- (3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;
- (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- (3)(G) records designated as sealed by rule of the Supreme Court;
- (3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings; and
- (3)(I) other records as ordered by the court under Rule 4-202.04.

(4) **Private Court Records.** The following court records are private:

(4)(A) records in the following actions:

- (4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;
- (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;
- (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed; ~~and~~
- (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and
- (4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment.

(4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:

- (4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;
- (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
- (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;
- (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
- (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
- (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;
- (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;
- (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

- 133 (4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this
134 subparagraph (B);
- 135 (4)(C) affidavit of indigency;
- 136 (4)(D) an affidavit supporting a motion to waive fees;
- 137 (4)(E) aggregate records other than public aggregate records under subsection (2);
- 138 (4)(F) alternative dispute resolution records;
- 139 (4)(G) applications for accommodation under the Americans with Disabilities Act;
- 140 (4)(H) jail booking sheets;
- 141 (4)(I) citation, but an abstract of a citation that redacts all non-public information is
142 public;
- 143 (4)(J) judgment information statement;
- 144 (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- 145 (4)(L) the following personal identifying information about a party: driver's license
146 number, social security number, account description and number, password,
147 identification number, maiden name and mother's maiden name, and similar
148 personal identifying information;
- 149 (4)(M) the following personal identifying information about a person other than a party or
150 a victim or witness of a crime: residential address, personal email address,
151 personal telephone number; date of birth, driver's license number, social security
152 number, account description and number, password, identification number,
153 maiden name, mother's maiden name, and similar personal identifying
154 information;
- 155 (4)(N) medical, psychiatric, or psychological records;
- 156 (4)(O) name of a minor, except that the name of a minor party is public in the following
157 district and justice court proceedings:
- 158 (4)(O)(i) name change of a minor;
- 159 (4)(O)(ii) guardianship or conservatorship for a minor;
- 160 (4)(O)(iii) felony, misdemeanor, or infraction;
- 161 (4)(O)(iv) protective orders; and
- 162 (4)(O)(v) custody orders and decrees;
- 163 (4)(P) nonresident violator notice of noncompliance;
- 164 (4)(Q) personnel file of a current or former court personnel or applicant for employment;
- 165 (4)(R) photograph, film, or video of a crime victim;

- 166 (4)(S) record of a court hearing closed to the public or of a child's testimony taken
167 under URCrP 15.5:
- 168 (4)(S)(i) permanently if the hearing is not traditionally open to the public and
169 public access does not play a significant positive role in the process;
170 or
- 171 (4)(S)(ii) if the hearing is traditionally open to the public, until the judge
172 determines it is possible to release the record without prejudice to the
173 interests that justified the closure;
- 174 (4)(T) record submitted by a senior judge or court commissioner regarding performance
175 evaluation and certification;
- 176 (4)(U) record submitted for in camera review until its public availability is determined;
- 177 (4)(V) reports of investigations by Child Protective Services;
- 178 (4)(W) victim impact statements;
- 179 (4)(X) name of a prospective juror summoned to attend court, unless classified by the
180 judge as safeguarded to protect the personal safety of the prospective juror or
181 the prospective juror's family;
- 182 (4)(Y) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure,
183 except briefs filed pursuant to court order;
- 184 (4)(Z) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;
185 and
- 186 (4)(AA) other records as ordered by the court under Rule 4-202.04.
- 187 (5) **Protected Court Records.** The following court records are protected:
- 188 (5)(A) attorney's work product, including the mental impressions or legal theories of an
189 attorney or other representative of the courts concerning litigation, privileged
190 communication between the courts and an attorney representing, retained, or
191 employed by the courts, and records prepared solely in anticipation of litigation or
192 a judicial, quasi-judicial, or administrative proceeding;
- 193 (5)(B) records that are subject to the attorney client privilege;
- 194 (5)(C) bids or proposals until the deadline for submitting them has closed;
- 195 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation
196 before issuance of the final recommendations in these areas;
- 197 (5)(E) budget recommendations, legislative proposals, and policy statements, that if
198 disclosed would reveal the court's contemplated policies or contemplated
199 courses of action;

- (5)(F) court security plans;
 - (5)(G) investigation and analysis of loss covered by the risk management fund;
 - (5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;
 - (5)(I) confidential business records under Utah Code Section 63G-2-309;
 - (5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:
 - (5)(J)(i) interfere with an investigation;
 - (5)(J)(ii) interfere with a fair hearing or trial;
 - (5)(J)(iii) disclose the identity of a confidential source; or
 - (5)(J)(iv) concern the security of a court facility;
 - (5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;
 - (5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;
 - (5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;
 - (5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;
 - (5)(O) record the disclosure of which would jeopardize life, safety, or property;
 - (5)(P) strategy about collective bargaining or pending litigation;
 - (5)(Q) test questions and answers;
 - (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
 - (5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;
 - (5)(T) presentence investigation report;
 - (5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and
 - (5)(V) other records as ordered by the court under Rule 4-202.04.
- (6) **Juvenile Court Social Records.** The following are juvenile court social records:
- (6)(A) correspondence relating to juvenile social records;

- (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;
- (6)(C) medical, psychological, psychiatric evaluations;
- (6)(D) pre-disposition and social summary reports;
- (6)(E) probation agency and institutional reports or evaluations;
- (6)(F) referral reports;
- (6)(G) report of preliminary inquiries; and
- (6)(H) treatment or service plans.

(7) **Juvenile Court Legal Records.** The following are juvenile court legal records:

- (7)(A) accounting records;
- (7)(B) discovery filed with the court;
- (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;
- (7)(D) name of a party or minor;
- (7)(E) record of a court hearing;
- (7)(F) referral and offense histories
- (7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.

(8) **Safeguarded Court Records.** The following court records are safeguarded:

- (8)(A) upon request, location information, contact information, and identity information other than name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a, Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;
- (8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;
- (8)(C) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;
- (8)(D) location information, contact information, and identity information other than name of a prospective juror summoned to attend court;
- (8)(E) the following information about a victim or witness of a crime:

267 (8)(E)(i) business and personal address, email address, telephone number,
268 and similar information from which the person can be located or
269 contacted;
270 (8)(E)(ii) date of birth, driver's license number, social security number, account
271 description and number, password, identification number, maiden
272 name, mother's maiden name, and similar personal identifying
273 information.

274 *Effective May/November 1, 20__*

Rule 4-508. Guidelines for Ruling on a Motion to Waive Fees.

Intent:

To promote statewide consistency in deciding motions to waive fees in civil cases and in the expungement of criminal records in which the moving party is not a prisoner.

To promote statewide consistency in deciding motions to waive fees in juvenile court cases in which the moving party is not a prisoner.

Nothing in this rule should be interpreted as limiting the discretion of the judge to decide a motion to waive fees.

Applicability:

This rule applies to all civil and small claims cases and in the expungement of criminal records in which the moving party is not a prisoner.

This rule applies to all juvenile court cases in which the moving party is not a prisoner.

As used in this rule “fee waiver” and similar phrases include waiving the fee in full or in part, as may be ordered by the judge.

Statement of the Rule:

- (1) The moving party must complete a motion to waive fees and a financial affidavit approved by the ~~Board of District Court Judges or, in the juvenile court, by the Board of Juvenile Court Judges~~ Judicial Council's Standing Committee on Court Forms. The moving party must provide supporting documentation of the claims made in the affidavit. In juvenile court, the minor or a minor's parent, guardian or authorized representative may move to waive fees.
- (2) Upon the filing of a motion to waive fees and financial affidavit, the court, sheriff or any other provider of a service offered by or through a government entity shall do what is necessary and proper as promptly as if the fee had been fully paid.
- (3) A motion to waive fees may be decided without notice to the other parties, requires no response, request to submit for decision or hearing. The court will review the affidavit and make an independent determination whether the fee should be waived. The court should apply a common sense standard to the information and evaluate whether the information is complete, consistent and true. Section 78A-2-304 requires a party to pay a full or partial

fee if the financial affidavit and any further questioning demonstrate the party is reasonably able to pay a fee.

(4) In general, a party is reasonably able to pay a fee if:

(4)(A) gross monthly income exceeds 100% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

(4)(B) the moving party has liquid assets that can be used to pay the fee without harming the party's financial position;

(4)(C) the moving party has credit that can be used to pay the fee without harming the party's financial position;

(4)(D) the moving party has assets that can be liquidated or borrowed against without harming the party's financial position;

(4)(E) expenses are less than net income;

(4)(F) Section 30-3-3 applies and the court orders another party to pay the fee of the moving party; or

(4)(G) in the judge's discretion, the moving party is reasonably able to pay some part of the fee.

(5) If the moving party is represented by private counsel, the motion to waive fees may be granted in proportion to the attorney's discount of the attorney fee. The moving party's attorney must provide an affidavit describing the fee agreement and what percentage of the attorney's normal, full fee is represented by the discounted fee.

(6) A motion to waive fees should be ruled upon within ten days after being filed.

(6)(A) If the fee is fully waived, the court, sheriff or any other provider of a service offered by or through a government entity shall do what is necessary and proper as promptly as if the fee had been fully paid.

(6)(B) If the fee is not fully waived, the court, sheriff or any other provider of a service offered by or through a government entity may require payment of the fee before doing what is necessary and proper. If the service has already been performed, the court, sheriff or service provider may do what is necessary and proper to collect the fee, including dismissal of the case.

(6)(C) If the fee is not fully waived, the court shall notify the party in writing of the fee amount, the procedure to challenge the fee; and the consequences of failing to pay the fee.

(6)(D) If the motion is rejected because of a technical error, such as failure to complete a form correctly or to attach supporting documentation, the court shall notify the moving party, and the moving party may file a corrected motion and affidavit within 14 days after being notified of the decision.

(7) In addition to any statutory remedies, an order granting a fee waiver may be reviewed at any time if the court has jurisdiction of the case. If the court determines, after waiving a fee, that the moving party is reasonably able to pay the fee, including from the proceeds of a judgment, the court may modify its previous order. The court may allocate the fee among the parties under Utah Rule of Civil Procedure 54, Utah Code Section 30-3-3, or as otherwise provided by law.

Effective May/November 1, 20____

Appendix I. Summary of Classification of Court Records

This chart is intended for use as a summary of how case record series are treated given classification of the case. “Public,” “Private,” “Protected,” and “Sealed” have the meanings given them by Rule 4-202.03.

“Semi-private” is an administrative description of a case in which the documents generally are private, but case identification is a matter of public record, as are the case history and the orders, judgments, and decrees. See Rule 4-202.02(4)(B)(i)-(ix).

Select documents and other records in a “Public” or “Semi-private” case may be otherwise classified by court order or because of the nature of the record or the nature of information within a record.

Case Type	Summary Classification	Case Identification Is:	Case History Is:	Documents Are:	Judgment Is:
Abstract of Judgment	Public	Public	Public	Public	Public
Adjudication of Marriage / Common Law Marriage	Semi-private	Public	Public	Private	Public
Administrative Agency Review	Public	Public	Public	Public	Public
Administrative Search Warrant	Private until 20 days after filing	Private until 20 days after filing	Private until 20 days after filing	Private until 20 days after filing	
Adoption	Sealed within 6 months after decree	Private until Sealed	Private until Sealed	Private until Sealed	Private until Sealed
Asbestos	Public	Public	Public	Public	Public
Attorney Discipline	Public	Public	Public	Public	Public
Child Support Lien	Public	Public	Public	Public	Public
Civil Rights	Public	Public	Public	Public	Public
Civil Stalking	Semi-private	Public	Public	Private	Public
Cohabitant Abuse	Semi-private	Public	Public	Private	Public
Condemnation	Public	Public	Public	Public	Public

Conservatorship	Semi-private	Public	Public	Private	Public
Contract	Public	Public	Public	Public	Public
Criminal Investigations	Protected Public unless otherwise ordered	Protected Public unless otherwise ordered	Protected Public unless otherwise ordered	Protected Public unless otherwise ordered	Protected Public unless otherwise ordered
Custody and Support	Semi-private	Public	Public	Private	Public
Debt Collection	Public	Public	Public	Public	Public
Deposit of Will	Sealed	Sealed	Sealed	Sealed	Sealed
Divorce	Semi-private	Public	Public	Private	Public
Estate/personal representative	Public	Public	Public	Public	Public
Eviction	Public	Public	Public	Public	Public
Extradition	Public	Public	Public	Public	Public
Felony	Public	Public	Public	Public	Public
Foreign Judgment	Public	Public	Public	Public	Public
Forfeiture of Property	Public	Public	Public	Public	Public
Gestational Agreement	Sealed within 6 months after decree	Private until Sealed	Private until Sealed	Private until Sealed	Private until Sealed
Grandparent Visitation	Semi-private	Public	Public	Private	Public
Guardianship	Semi-private	Public	Public	Private	Public
Hospital Lien	Public	Public	Public	Public	Public
Infraction	Public	Public	Public	Public	Public
Interpleader	Public	Public	Public	Public	Public
Involuntary Commitment	Private	Private	Private	Private	Private
Judgment By Confession	Public	Public	Public	Public	Public

Juvenile Court case types	Private	Private	Private	Private	Private
Lien Mortgage Foreclosure	Public	Public	Public	Public	Public
Malpractice	Public	Public	Public	Public	Public
Minors Settlement	Public	Public	Public	Public	Public
Miscellaneous	Public	Public	Public	Public	Public
Misdemeanor	Public	Public	Public	Public	Public
Name Change	Public	Public	Public	Public	Public
Other Civil	Public	Public	Public	Public	Public
Parking	Public	Public	Public	Public	Public
Paternity	Semi-private	Public	Public	Private	Public
Personal Injury	Public	Public	Public	Public	Public
Petition to Modify	Determined by the classification of the case in which the petition is filed.				
Post-Conviction Relief	Public	Public	Public	Public	Public
Probate	Public	Public	Public	Public	Public
Property Damage	Public	Public	Public	Public	Public
Property Rights	Public	Public	Public	Public	Public
Renew Judgment	Public	Public	Public	Public	Public
Separate Maintenance	Semi-private	Public	Public	Private	Public
Sexual Harassment	Public	Public	Public	Public	Public
Small Claims	Public	Public	Public	Public	Public
Small Claims Trial De Novo	Public	Public	Public	Public	Public
Subpoena for Deposition	Public	Public	Public	Public	Public

Supervised Administration	Public	Public	Public	Public	Public
Tax Court	Public	Public	Public	Public	Public
Tax Lien	Public	Public	Public	Public	Public
Tax Protest	Public	Public	Public	Public	Public
Traffic	Public	Public	Public	Public	Public
Trust	Public	Public	Public	Public	Public
UCCJA Action	Semi-private	Public	Public	Private	Public
UISFSA Action	Semi-private	Public	Public	Private	Public
Water Rights	Public	Public	Public	Public	Public
Workforce Services Liens	Public	Public	Public	Public	Public
Writs	Public	Public	Public	Public	Public
Wrongful Death	Public	Public	Public	Public	Public
Wrongful Termination	Public	Public	Public	Public	Public

TAB 4

Court Commissioner Conduct Committee

NOTES:

1 **Rule 3-201.02. Court Commissioner Conduct Committee.**

2 **Intent:**

3 To establish a procedure for the review of complaints filed against court commissioners.

4 **Applicability:**

5 This rule shall apply to all trial courts of record.

6 **Statement of the Rule:**

7 (1) **Court Commissioner Conduct Committee.**

8 (1)(A) Membership. The Court Commissioner Conduct Committee (in this rule
9 "committee") shall consist of the following members:

10 (1)(A)(i) as chair, the Court of Appeals member of the Ethics Advisory
11 Committee, who shall serve as chair of the committee;

12 (1)(A)(ii) two presiding judges from judicial districts with a court commissioner,
13 which presiding judges shall be from districts other than the district the
14 complained-of court commissioner primarily serves;

15 (1)(A)(iii) the immediate past Bar Commissioner member of-on the Judicial
16 Council; and

17 (1)(A)(iv) the chair of the Supreme Court Advisory Committee on Rules of
18 Professional Conduct.

19 (1)(B) Recusal of committee members. Circumstances which that would require
20 recusal of a judge shall require recusal of a committee member from participation
21 in committee action.

22 (1)(B)(i) If the chair is recused, a majority of the remaining members shall
23 select from among themselves a chair pro tempore.

24 (1)(B)(ii) If a presiding judge is recused, the chair shall temporarily appoint a
25 presiding judge of another judicial district with a commissioner.

26 (1)(B)(iii) If the immediate past Bar Commissioner member of-on the Judicial
27 Council is recused, the chair shall temporarily appoint another past
28 Bar Commissioner member of-on the Judicial Council.

29 (1)(B)(iv) If the chair of the Supreme Court Advisory Committee on Rules of
30 Professional Conduct is recused, the chair shall temporarily appoint

Commented [MCD1]: Should complaints have deadlines (i.e., filed within 90 days of the alleged conduct)?

Rule 2-211: There is an "allegation" process for judicial and quasi-judicial failure to comply with the CJA and CJC already in place in Rule 2-211. How does this complaint review process dovetail with that rule?

Statute governing commissioners = 78A-5-107

another member of the Supreme Court Advisory Committee on Rules of Professional Conduct.

(2) Complaints.

(2)(A) Each complaint shall be in writing and shall contain:

(2)(A)(i) the complainant's name and contact information;

(2)(A)(ii) the name of the involved commissioner; and

(2)(A)(iii) a description of the commissioner's actions in sufficient detail to inform the committee of the nature and date of the conduct.

(2)(B) A person who has a complaint against a commissioner shall start the complaint review process by delivering a copy of the written complaint to the committee chair.

(2)(C) **Confidentiality.** All proceedings and materials related to a complaint shall be kept confidential. The following individuals shall have access to the complaint, any materials produced in connection with the complaint review process, and the hearing conducted in regard to the complaint under subsection (3), as necessary for a fair determination of the issue, as follows:

(2)(C)(i) the committee chair;

(2)(C)(ii) the commissioner, if the complaint is not dismissed after the chair's initial review;

(2)(C)(iii) the presiding judge of the district the court commissioner primarily serves, if the complaint raises performance issues that should most appropriately be addressed immediately by the presiding judge or if the complaint is not dismissed after the chair's initial review;

(2)(C)(iv) the Presiding Officer of the Council, upon request or in connection with the Judicial Council's authority and obligations under Rule 3-201;

(2)(C)(v) the committee members, if the committee is required to address any issue related to the complaint; and

(2)(C)(vi) any other person upon the agreement of a majority of the committee or the Presiding Officer of the Council.

(2)(D) **Initial Review.** The chair shall make an initial review of the complaint. If the complaint is not sufficiently clear in its allegations, the chair may elect to request additional written information from the complainant, refer the matter for investigation, or dismiss the matter under (2)(E). The purpose of the initial review is to determine:

Commented [MCD2]: The commissioner receives notice of the dismissal of the complaint if dismissed after the chair's initial review (see (2)(E) below). Is there a policy reason for NOT providing notice of the complaint to the commissioner all of the time? Perhaps it discourages complaints if the complainant knows the commissioner will immediately be made aware?

Commented [MCD3]: This provision was specifically discussed for inclusion at the November meeting so that commissioner performance can be addressed immediately (not waiting to address ongoing performance until the end of the complaint process), but is it necessary to limit presiding judge access? It seems like the presiding judge, as supervisor (78A-5-107(6)(b)), should always have notice of the complaint.

Commented [MCD4]: I.e., allows the state court administrator, TCE, general counsel, etc. to have access and be involved as necessary, but only with committee or Council approval.

(2)(D)(i) whether the complaint raises performance issues that should be addressed immediately by the presiding judge of the district the commissioner primarily serves;

(2)(D)(ii) whether any issues require investigation by the committee; or

(2)(D)(iii) whether the complaint is without merit and should be dismissed.

(2)(E) Dismissal of complaint after initial review or investigation. The chair may dismiss a complaint if the initial review shows that the complaint is without merit. The chair of the committee shall provide notice of and basis for the dismissal to the complainant, the presiding judge, and the commissioner. The chair, upon initial review, or the committee, after investigation, may consider a complaint to be without merit if the complaint:

(2)(E)(i) raises only issues of law or fact for which the remedy is the review of the case by the trial court judge or by an appellate court;

(2)(E)(ii) fails to state any basis for the committee to question the commissioner's compliance with the provisions of this Code or the Code of Judicial Conduct; or

(2)(E)(iii) is investigated by the committee, the result of which shows that there is no basis to question the commissioner's compliance with the provisions of this Code or the Code of Judicial Conduct.

(2)(F) Investigation. The committee may investigate a complaint that is not dismissed under paragraph (2)(E). This investigation shall be conducted to more fully understand the issues raised in the complaint and to determine whether dismissal or a hearing is appropriate.

(2)(F)(i) The committee may request that the state court administrator appoint a staff person within the administrative office to perform any investigation and make any presentations to the committee or the Council. The committee may request as much investigation as necessary for a full determination of the issue.

(2)(F)(ii) At the conclusion of the investigation, the committee shall deliberate upon the information received, and if warranted, schedule the matter for a hearing. Any complaint that is not scheduled for a hearing shall be dismissed.

~~(2)—Informal complaint. An informal complaint against a court commissioner may be filed with the presiding judge of the court the court commissioner serves. The presiding judge~~

Commented [MCD5]: They get notice of the dismissal, so perhaps they need notice of the complaint to put the dismissal in context. Or perhaps the complaint is not initially provided and the chair's dismissal explains that a complaint had been filed and reviewed?

shall conduct such investigation and take such corrective action as warranted by the complaint.

(3) Formal complaint.

(3)(A) A formal complaint against a court commissioner shall be in writing and filed with the presiding officer of the Council. The presiding officer shall refer the complaint to the committee and provide a copy of the complaint to the court commissioner and to the presiding judge of the court the commissioner serves.

(3)(B) All proceedings and materials related to a formal complaint shall be kept confidential.

(3)(C) The chair or the committee shall dismiss a frivolous complaint. The chair or the committee shall dismiss a complaint found to raise only issues of law or fact for which a remedy is the review of the case by the trial court judge or by an appellate court. The chair of the committee shall provide notice of and basis for the dismissal to the complainant, the presiding judge and the commissioner.

(3)(D) The committee may investigate a complaint that is not dismissed under paragraph (3)(C). This investigation shall be conducted to determine whether dismissal or a hearing is appropriate.

(3)(E) The committee may request that the state court administrator appoint a staff person within the administrative office to perform any investigation and make any presentations to the Committee or the Council.

(4)(3) Hearings of the Court Commissioner Conduct Committee.

(4)(A)(3)(A) The hearings of the committee-Committee hearings shall be closed to the public. The committee shall interview the complainant, the ~~court~~ commissioner, and any witnesses determined to have relevant information. The commissioner has the right to testify. The commissioner and complainant may be present at any hearing of the committee and have the assistance of counsel. The commissioner may present and examine and cross-examine witnesses. Testimony shall be presented under oath and a record of the proceedings maintained. The commissioner may obtain a copy of the record upon payment of any required fee.

(4)(B)(3)(B) Within 30 days after the hearing, The committee shall make written findings concerning the merits of the complaint and provide a copy of the findings ~~to the complainant, the court commissioner, and the presiding judges of the any~~ court the commissioner serves.

Commented [MCD6]: Should this include to the Council? This would trigger the review in (4)(B)(i) and the time to file objections in (4)(B)(ii) . . .

133 ~~(4)(C)(3)(C)~~ If, after the hearing, the committee finds the complaint to have merit, the
134 committee shall recommend to the Council that ~~a~~ sanctions be imposed under
135 CJA Rule 3-201~~(6)~~. The committee shall dismiss any complaint found after
136 hearing to be without merit.

137 ~~(5)(4)~~ **Council Review.**

138 ~~(5)(A)(4)(A)~~ **Complaints dismissed without a hearing.** The chair of the committee
139 shall report to the Council not less than annually on the committee's work
140 including a general description of any complaint dismissed without a hearing.

141 ~~(5)(B)(4)(B)~~ **Complaints with a committee hearing.**

142 ~~(5)(B)(i)(4)(B)(i)~~ Upon request, The Council shall review the record of the
143 committee hearing to determine the correct application of procedures
144 and to determine the sanction to be imposed.






145 ~~(5)(B)(ii)(4)(B)(ii)~~ The complainant, the commissioner, or any presiding
146 judges of ~~at the~~ districts the commissioner serves shall file any
147 objections to the committee's findings in writing with the Council. No
148 person is entitled to attend the Council meeting at which the complaint
149 is reviewed.

Commented [MCD7]: Or is the council wanting to be obligated to review every hearing?

Commented [MCD8]: What is the time frame for filing written objections? 15 days after written findings are delivered to the Council?

150 *Effective May/November 1, 20__*

UTAH JUDICIAL CONDUCT COMMISSION – COMPLAINT RESOLUTION PROCESS

INITIAL SCREENING 	PRELIMINARY INVESTIGATION 	FULL INVESTIGATION 	FORMAL PROCEEDINGS 	SUPREME COURT 
<p>Executive Director reviews each “complaint” to determine whether it is a complaint within the JCC’s jurisdiction.</p> <p>Staff returns non-JCC complaints (i.e., complaints against bar members or court employees) to complainant with appropriate instructions.</p> <p>For JCC complaints, staff prepares electronic and hard-copy files, sends acknowledgment letter to complainant, and returns hard-copy file to Executive Director.</p> <p>Executive Director assigns investigator.</p> <p><i>Note: Information received in any form other than a written complaint is submitted directly to JCC members, who review and discuss the information and vote to either take no action or to have staff conduct a preliminary investigation.</i></p>	<p>Investigator conducts preliminary investigation, writes preliminary investigation report, and recommends whether to dismiss or to proceed to full investigation as to some or all allegations.</p> <p>Executive Director reviews preliminary investigation report and recommendation, and may revise either.</p> <p>Staff distributes preliminary investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses preliminary investigation report and recommendation, and votes to dismiss, to have staff conduct additional preliminary investigation, or to proceed to full investigation as to some or all allegations.</p>	<p>Staff provides judge with pertinent materials and asks judge to respond in writing to identified allegations.</p> <p>Investigator conducts additional investigation, if necessary, as to issues raised in judge’s response. Investigator may write supplemental investigation report and may make recommendation whether to dismiss or to proceed to formal proceedings.</p> <p>Staff distributes judge’s response and any supplemental investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses judge’s response and any supplemental investigation report and recommendation, and votes to dismiss, to have staff conduct additional investigation, or to proceed to formal proceedings as to some or all allegations.</p>	<p>Staff prepares formal complaint and serves same upon judge via certified mail.</p> <p>Judge may file written response.</p> <p>Matter may be resolved by dismissal, stipulated resolution or confidential hearing.</p> <p>A stipulated resolution may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p> <p>After a confidential hearing, the JCC may dismiss the matter or may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p>	<p>Staff files JCC’s recommendation and statutorily required materials with Supreme Court.</p> <p>JCC’S recommendation becomes public upon filing. All other materials become public only upon Supreme Court order.</p> <p>Supreme Court reviews the JCC’s proceedings as to both law and fact, and implements, modifies or rejects JCC’s recommendation.</p> <p><i>Note: JCC dismissals are not reviewed by the Supreme Court.</i></p>

TAB 5

HR 480 – Employee Exercise Policy

NOTES:

RULE AMENDMENT REQUEST

Policy and Planning

Policy and Planning is an executive committee of the Judicial Council and is responsible for recommending to the Council new and amended rules for the Code of Judicial Administration and the Human Resource Policies and Procedures Manual.

Instructions: Unless the proposal is coming directly from the Utah Supreme Court, Judicial Council, or Management Committee, this Request Form must be submitted along with a draft of the proposed rule amendment before they will be considered by the Policy and Planning Committee. **Once completed, please e-mail this form and the proposed rule changes to Keisa Williams at keisaw@utcourts.gov.**

REQUESTER CONTACT INFORMATION:

Name of Requester: E-mail: Phone Number: Date of Request:

RULE AMENDMENT:

Rule Number: Location of Rule:

Brief Description of Proposed Amendment:

Reason Amendment is Needed:

Is this proposal urgent?

No

Yes

If Yes, provide an estimated deadline date and explain why it is urgent:

List all stakeholders:

Select each entity that has approved this proposal:

Accounting Manual Committee	Legislative Liaison Committee
ADR Committee	Licensed Paralegal Practitioner Committee
Board of Appellate Court Judges	Model Utah Civil Jury Instructions Committee
Board of District Court Judges	Model Utah Criminal Jury Instructions Committee
Board of Justice Court Judges	Policy and Planning member
Board of Juvenile Court Judges	Pretrial Release and Supervision Committee
Board of Senior Judges	Resources for Self-represented Parties Committee
Children and Family Law Committee	Rules of Appellate Procedure Advisory Committee
Court Commissioner Conduct Committee	Rules of Civil Procedure Advisory Committee
Court Facility Planning Committee	Rules of Criminal Procedure Advisory Committee
Court Forms Committee	Rules of Evidence Advisory Committee
Ethics Advisory Committee	Rules of Juvenile Procedure Advisory Committee
Ethics and Discipline Committee of the Utah Supreme Court	Rules of Professional Conduct Advisory Committee
General Counsel	State Court Administrator
Guardian ad Litem Oversight Committee	TCE's
Judicial Branch Education Committee	Technology Committee
Judicial Outreach Committee	Uniform Fine and Bail Committee
Language Access Committee	WINGS Committee
Law Library Oversight Committee	NONE OF THE ABOVE

If the approving entity is not listed above, please list it here:

Requester's Signature:

Supervisor's Signature (if requester is not a manager or above):



FOR POLICY AND PLANNING USE ONLY

Proposal Accepted?	Queue Priority Level:	Committee Notes/Comments:
Yes	Red	
No	Yellow	
	Green	

Date Committee Approved for Public Comment:

Date Committee Approved for Final Recommendation to Judicial Council:

EXERCISE POLICY 480 (Draft)

PURPOSE

The purpose of this policy is to promote the general physical and emotional well being of Court employees by establishing an opportunity for employees to participate in an exercise program which will:

- A. Improve the overall health and well-being of employees;
- B. Encourage a personal commitment among employees to adopt healthy activities as a permanent lifestyle;
- C. Help reduce stress and the risk of cardiovascular disease factors in employees;
- D. Improve productivity in the workplace, which will benefit both the Court and the employees;
- E. Promote employee job satisfaction, and
- F. Attract and retain quality employees.

SCOPE

This policy establishes guidelines and procedures for an employee interested in starting or maintaining an exercise program.

This policy applies to all court employees.

POLICY AND PROCEDURE

I. General

I.1 Full-time benefited employees are eligible for the option of using 30 compensated minutes a day for up to three days per week during their scheduled work hours to participate in an exercise program.

I.1.1 Employees working a 4/10 work schedule have the option of 30 compensated minutes a day for up to two days per week.

I.2 This time is for an appropriate exercise program promoting physical fitness and is not intended to provide extra time for personal matters other than physical fitness exercise that consists of 30 consecutive minutes of cardiovascular, strength training, or conditioning.

I.3 Employees, with the approval of their supervisor, may use the 30 minutes in conjunction with their scheduled lunch hour.

I.4 Supervisors may not authorize employees to use the 30 minute period at the start of the workday to delay arrival, nor at the end of the workday to allow early departure.

I.5 Exercise time is not cumulative (that is, exercise time not used during the week cannot be carried over into any subsequent day or week).

I.6 Exercise time should not result in the accrual of excess hours.

2. Guidelines

2.1 Participation in the exercise program is neither an employee right nor a guaranteed benefit.

2.2 Exercise time must be pre-approved by the employee's immediate supervisor to ensure that normal operations will be maintained.

2.3 Authorization to participate in this program may be revoked if the provisions of the program are violated or if it interferes with the employee's ability to accomplish work assignments in a timely and accurate manner.

2.4 Employees are encouraged to consult with their personal physician to ensure they are physically capable of participating in this exercise program.

2.5 Employees participating in this program do so at their own risk. The Courts are not responsible for any and all injuries, illnesses, and other consequences suffered by the employee while participating in this program. Injuries incurred during compensated exercise time will not be considered work-related injuries for purposes of workers compensation benefits.

2.6 Authorization to participate in this program shall be revoked if the provisions of this policy are violated. This includes repeated violation of the basic intent of the program which is to adopt a regular program of exercise to enhance and improve physical conditioning. Policy violations may result in disciplinary action.

2.7 Authorization to participate in this program shall be revoked if the employee is subject to disciplinary action or placed on a Performance Improvement Plan (PIP), but may be reauthorized after successful completion of the PIP.

3. Procedures

3.1 An employee requests approval from the supervisor to participate in this program.

3.2 An employee approved to participate in this program completes the "Utah Courts Employee Fitness Agreement" and secures the signature of the supervisor.

3.3 An employee approved for participation in this program records exercise time as hours worked in ESS.

**UTAH COURTS
EMPLOYEE FITNESS AGREEMENT**

In accordance with Exercise Policy 480 the employee listed below agrees to comply with the policy and participate in an appropriate exercise program promoting physical fitness that is not intended to provide extra time for personal matters other than physical fitness exercise that consists of 30 consecutive minutes of cardiovascular, strength training, or conditioning.

Employee Name (please print) _____ **District** _____

The following time schedule will be observed:

Day(s) of the week: _____

Time(s): _____

Note: any modifications to the schedule stated above must be coordinated with and approved by your supervisor.

Employee Signature

Date

Supervisor Signature

Date

EXERCISE POLICY 480 (Draft)

PURPOSE

The purpose of this policy is to promote the general physical and emotional well being of Court employees by establishing an opportunity for employees to participate in an exercise program which will:

- A. Improve the overall health and well-being of employees;
- B. Encourage a personal commitment among employees to adopt healthy activities as a permanent lifestyle;
- C. Help reduce stress and the risk of cardiovascular disease factors in employees;
- D. Improve productivity in the workplace, which will benefit both the Court and the employees;
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I. General

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I.1.1 Employees working a 4/10 work schedule have the option of 30 compensated minutes a day for up to two days per week.

I.1.2 Employees working a 4/9 and a 4 work schedule have the option of 30 compensated minutes a day for up to two days per week.

I.1.3 Part time employees working 30 hours per week have the option of 30 compensated minutes a day for up to two days per week.

I.1.4 Part time employees working 20 hours per week have the option of 30 compensated minutes for one day a week.

I.2 This time is for an appropriate exercise program promoting physical fitness and is not intended to provide extra time for personal matters other than physical fitness exercise that consists of 30 consecutive minutes of cardiovascular, strength training, or conditioning.

I.3 Employees, with the approval of their supervisor, may use the 30 minutes in conjunction with their scheduled lunch hour.

I.4 Supervisors may not authorize employees to use the 30 minute period at the start of the workday to delay arrival, nor at the end of the workday to allow early departure.

1.5 Exercise time is not cumulative (that is, exercise time not used during the week cannot be carried over into any subsequent day or week).

1.6 Exercise time should not result in the accrual of excess hours.

2. Guidelines

2.1 Participation in the exercise program is neither an employee right nor a guaranteed benefit.

2.2 Exercise time must be pre-approved by the employee's immediate supervisor to ensure that normal operations will be maintained.

2.3 Authorization to participate in this program may be revoked if the provisions of the program are violated or if it interferes with the employee's ability to accomplish work assignments in a timely and accurate manner.

2.4 Employees are encouraged to consult with their personal physician to ensure they are physically capable of participating in this exercise program.

2.5 Employees participating in this program do so at their own risk. The Courts are not responsible for any and all injuries, illnesses, and other consequences suffered by the employee while participating in this program.

2.6 Authorization to participate in this program shall be revoked if the provisions of this policy are violated. This includes repeated violation of the basic intent of the program which is to adopt a regular program of exercise to enhance and improve physical conditioning. Policy violations may result in disciplinary action.

2.7 Authorization to participate in this program shall be revoked if the employee is subject to disciplinary action or placed on a Performance Improvement Plan (PIP), but may be reauthorized after successful completion of the PIP.

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3.1 An employee requests approval from the supervisor to participate in this program.

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**UTAH COURTS
EMPLOYEE FITNESS AGREEMENT**

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Employee Name (please print) _____ **District** _____

The following time schedule will be observed:

Day(s) of the week: _____

Time(s): _____

Note: any modifications to the schedule stated above must be coordinated with and approved by your supervisor.

Employee Signature

Date

Supervisor Signature

Date