

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

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
January 4, 2019 – 12:00 p.m. to 2:00 p.m.

12:00	Welcome and Approval of Minutes - <i>Sub-item</i>	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 work conflicts</i>	Discussion / Action	Tab 2	Justice Himonas Nancy Sylvester
12:35	HR 480 – Employee Exercise Policy - <i>Explanation of policy limits on exercise time scheduling flexibility</i> - <i>Presentation of other agency policies regarding on-site exercise equipment</i>	Discussion / Action	Tab 3	Rob Parkes Michael Drechsel
1:00	Court Commissioner Conduct Committee - <i>Rule 3-201.02 (and Rule 3-201, as necessary) – review draft language prepared as a result of December 2018 meeting.</i>	Discussion / Action	Tab 4	Michael Drechsel
1:30	Rule 7-302 – Social Studies - <i>RENAME - "Court Reports Prepared for Delinquency Cases."</i> - <i>AMEND - Provides greater detail regarding information to be included in court reports. Makes non-substantive stylistic changes.</i>	Discussion / Action	Tab 5	Michael Drechsel
1:40	Rules back from Public Comment: - <i>CJA 4-409 Council Approval of Problem Solving Courts</i> - <i>CJA 1-205 Standing and Ad Hoc Committees. AMEND - adds Court Security Director as a member of the Court Facility Planning Committee.</i> - <i>CJA 2-208 Publication and Distribution. AMEND - remove requirement that AOC and TCEs "maintain a copy of the CJA and make it available for inspection during business hours."</i> - <i>CJA 3-103 / 3-104 / 3-111 Administrative Role of Judges / Presiding judges / Performance Evaluation of Senior Judges and Court Commissioners. AMEND - assigns responsibilities to justice court presiding</i>	Discussion / Action	Tab 6	Michael Drechsel

	<p><i>judges, to conform with district court counterparts. Clarifies responsibilities of presiding judges to coordinate with presiding justice court judges regarding magistrate rotation.</i></p> <ul style="list-style-type: none"> - <i>CJA 3-106 / 3-107 Legislative Activities / Executive Branch Policy Initiatives. AMEND - clarify options available to judicial council in response to legislative activities / executive initiatives.</i> - <i>CJA 3-413 Judicial library resources. AMEND - revises rule to conform with current practice and removes outdated provisions that no longer conform to current practice.</i> - <i>CJA 3-501 Insurance Benefits Upon Retirement. AMEND - adds "parental leave" to the "sick day" calculation for purposes of determining post-retirement insurance benefits.</i> - <i>CJA 4-202.09 Miscellaneous. AMEND - removes the requirement for a party to label a filing as private, protected, controlled, juvenile social / juvenile legal, or safeguarded.</i> - <i>CJA 4-403 Electronic signature and signature stamp use. AMEND - authorizes use of judge signature stamp on writs of habeas corpus ad prosequendum / testificandum for transport of federal prisoners. Authorizes use of judge signature stamp on forthcoming / proposed Rule 109 (Domestic Relations Injunctions) orders.</i> - <i>CJA 4-405 Juror and Witness Fees and Expenses. AMEND - makes various revisions to align rule with current business practices at court and state level.</i> - <i>CJA 4-508 Guidelines for Ruling on a Motion to Waive Fees. AMEND - removes default requirement to provide documentation supporting affidavit of impecuniosity, authorizing judge to specifically request that such documentation be provided on a case by case basis.</i> 			
2:00	Adjourn			

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):

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 Conference 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 December 7, 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
December 7, 2018 – 12:00 p.m. to 2:00 p.m.

DRAFT

MEMBERS:

PRESENT EXCUSED

Judge Derek Pullan, <i>Chair</i>	•	
Judge Augustus Chin	•	
Judge Ryan Evershed	•	
Judge Kevin Allen	•	
Judge John Walton	•	
Mr. Rob Rice	•	

GUESTS:

None

STAFF:

Michael Drechsel
Minhvan Brimhall (recording secretary)

(1) WELCOME AND APPROVAL OF MINUTES:

Circumstances required Judge Pullan, Judge Evershed, and Judge Walton to participate in the meeting via telephone. Judge Pullan welcomed the committee to the meeting. The committee considered the minutes from the November 2, 2018 meeting. With no changes, Mr. Rice moved to approve the draft minutes. Judge Chin seconded the motion. The committee voted and the motion passed unanimously.

(2) HR 590 – INTERNS AND WORK CONFLICTS:

Justice Himonas had a scheduling conflict that prohibited him from attending the meeting today. Arrangements have been made to have him participate in the January meeting.

The committee briefly discussed the draft policy. Judge Pullan noted that HR 590 would allow court interns to accept employment positions outside court, while simultaneously being employed as a court intern. The “Scope” section of the current draft notes that the policy is “an exception” to the general rule prohibiting such activity. Judge Pullan was concerned about creating that sort of exception to the general rule, and wasn’t comfortable with the language in the “Scope” section for that reason.

Judge Pullan also recommended that, at a minimum, the draft policy should include language making it clear that recusal should be both case-based AND issue-based. In other words, if an intern hasn’t worked on a particular case, but has worked on a particular ISSUE, that issue-based conflict should result in the intern’s recusal and screening from participating in the matter. Judge Pullan recommended changes to the draft on specific line numbers. Mr. Drechsel will make those changes and send the revised draft to Justice Himonas and Nancy Sylvester in advance of the next meeting.

The committee welcomes further discussion with Justice Himonas to continue exploring how to get to a workable policy. This matter was tabled until the January meeting.

(3) RULES BACK FROM PUBLIC COMMENT:

Mr. Drechsel reported to the committee regarding the four rules that had been published for public comment from September 28, 2018 to November 12, 2018.

- CJA 1-205 – Standing and Ad Hoc Committees: one comment was received for this rule in connection with the change related to the membership of the Committee on Pretrial Release and Supervision. Joanna Landau of the Utah Indigent Defense Commission (UIDC) commented that the intent and purpose of the amendment to the rule would be better served if the language stated “a person to represent the Utah Indigent Defense Commission, who is designated by the Commission’s Chair.” This would allow the chair to assign a staff member or designee at their discretion. Mr. Drechsel recommended changing the language to read “the Director of the Indigent Defense Commission or designee.”

With no further discussion, Mr. Rice moved to recommend to the Judicial Council that the amended language, as described by Mr. Drechsel, be approved as a final change to the rule. Judge Allen seconded the motion. The motion was unanimously approved and the amended language (as well as the language regarding the Committee on Court Forms, which remained changed) is recommended to the Judicial Council for final approval.

- 4-202.02 – Records Classification: no comments were received.
- 4-508 – Guidelines for Ruling on a Motion to Waive Fees: no comments were received.
- Appendix I – Summary of Classification of Court Records: no comments were received.

With no further discussion, Judge Chin motioned to recommend to the Judicial Council that these rule changes be adopted for final approval. Judge Walton seconded the motion. The motion was unanimously approved.

(4) COURT COMMISSIONER CONDUCT COMMITTEE:

CJA 3-201.02 was last amended in 2004. This proposed amendment had first been considered by the committee at the November 2, 2018 meeting. Since that time, Mr. Drechsel has reviewed the current rule, the feedback from the committee from the November 2, 2018 meeting, and the court’s and Judicial Conduct Commission’s complaint resolution processes. Mr. Drechsel then took that information and prepared a draft of Rule 3-201.02, which draft was included in the committee’s meeting materials. Mr. Drechsel reviewed the draft with the committee. The committee discussed the draft, including significant conversation regarding confidentiality and when certain people should be notified a complaint was received and investigated. Several of the committee members stated that they believed it was not necessary for the commissioner or the presiding judge to be notified of the complaint unless the initial review was to result in additional investigation. Rob Rice suggested that the rule should be drafted so that “dismissal” isn’t so prominent. In other words, a complaint should move forward under certain circumstances. If the complaint is not advanced in the complaint resolution process, then it would be dismissed. But dismissal should not appear in the rule to be a desired resolution to the complaint process. The committee agreed that the Presiding Judge would need to be involved in the complaint resolution process, since by statute, the presiding judge is the court commissioner’s supervisor.

Mr. Rice inquired why the typical Human Resource policies for employees complaint resolution and discipline (since commissioners are employees) were not sufficient for this process. Mr. Drechsel informed the committee that commissioners and judges are excluded from the normal HR policies for typical employees and that the processes outlined in Rule 3-201.02 and 3-201 are the avenue for complaint resolution and sanctions against a commissioner. For this reason, Mr. Drechsel explained, it is important that the process be sufficiently detailed. The committee reviewed some of the procedures related to the Judicial Conduct Commission’s complaint resolution process, including the statutes and the associated administrative rules. The committee agreed that the court commissioner conduct committee process should be similar to the JCC processes (though perhaps not identical).

The committee discussed several language modifications of the rule for clarity. Without finishing a complete review of the draft rule, Judge Pullan suggested that the Court Commissioner Conduct Committee should be asked to provide direction on the complaint process outlined in the rule. The committee agreed with this approach to revising the rule. Mr. Drechsel was tasked with meeting with Judge Christiansen Forster, chair of the court commissioner conduct committee, to discuss recommendations made by this committee. Mr. Drechsel will bring this item for review at the January meeting.

(5) HR 480 – EMPLOYEE EXERCISE POLICY (NEW POLICY):

Mr. Drechsel reported that the TCEs have been discussing a new policy, numbered HR 480. Human Resources believes an employee exercise policy is a good way to improve employee satisfaction and attract more individuals to work for the court. The policy encourages wellness and fitness in the workplace. The committee membership all agreed that such a policy appears to address desirable purposes.

The committee discussed concerns regard two items in the policy. The first item addresses the time at which employees are allowed to use the exercise time described in the policy. The current policy allows for 30 minutes and must be used during the employees work time, contiguous with their lunch break. Judge Pullan believed this was unnecessarily restrictive and that the time should be available to the employee at whatever time works best for the employee and supervisor in meeting court staffing needs (including using the time at the beginning or end of the workday or at other times throughout the day). The committee agreed with this position, noting that supervisors would be in the best position to assess when an employee using such time would be least disruptive.

The second item is in regards to how this policy would relate to Workers' Compensation if the employee were to be injured during exercise time. Mr. Drechsel reported running this by David Lund (not mentioned by name in the meeting because Mr. Drechsel couldn't recall his name off the top of his head) at the State Department of Risk Management. Mr. Lund noted that similar policies were in effect for other state agencies, and appear to be working well. Mr. Lund wasn't sure that compensated time would ever not be considered subject to Workers' Comp claims. As a result of that feedback, and based on research conducted by Mr. Drechsel, the committee decided that it would be wise for the current policy to not address whether injuries would be subject to Workers' Compensation claims. There is a separate process available to determine applicability and speaking to that in the policy would not be outcome determinative.

An additional source of liability is if employees are able to bring in and store their own exercise equipment at courthouses. A few questions related to such equipment would be who would be responsible for maintaining and supervising the use of those items. Mr. Drechsel expressed concerns that it is a liability consideration for the court if an employee were to get injured during their workout when using their own, or another employee's, donated equipment on court property, especially if such equipment wasn't adequately supervised. Mr. Drechsel stated that the course of action that most clearly eliminates this potential liability is to prohibit the use or storage of donated exercise equipment on court premises. Mr. Drechsel also noted that this may be unpopular in certain areas where there may be a desire to have such equipment available on the courthouse. If such equipment is

Judge Allen stated that one way to resolve some of these concerns would be take a closer look at how similar policies are implemented in other agencies, including where there is equipment on-site. Judge Allen recommended that the State Capitol be contacted to see how they operate their exercise room. Mr. Drechsel will review employee exercise policies from other state agencies and conduct further research. Mr. Drechsel will provide recommended revisions to the current policy following his review and will bring this to the committee for review at the January meeting.

(6) ELECTION OF CHAIR FOR 2019:

Rule 1-204 states that "[t]he members of the Policy and Planning Committee . . . shall elect their respective chairs annually and select a new chair at least once every two years." Mr. Drechsel explained that Judge Pullan had become chair of the committee after a vote at the January 2017 meeting. Mr. Drechsel noted that, as a result, it was time for the committee to elect a new chair. The committee discussed the rule. Judge Pullan stated he is happy to continue to chair the committee unless someone else on the committee would like an opportunity to serve in that position.

Judge Allen nominated Judge Pullan to be elected as the new, continuing chair of the committee. Both Judge Walton and Judge Chin seconded the motion. The committee voted and the motion passed unanimously. Judge Pullan will serve as chair of the committee for 2019.

(7) ADJOURN

With no further items for discussion, Judge Chin motioned to adjourn the meeting. Judge Walton seconded the motion. The motion was approved unanimously. The meeting adjourned at 1:30 PM. The next meeting is scheduled for January 4, 2019, in the Judicial Council room at 12:00 p.m.

At the conclusion of the meeting, Mr. Drechsel noted that he has been asked to participate in the courts' Legislative Liaison activities during the upcoming legislative session. Mr. Drechsel will have conflicting schedules during the February 1 and March 1 meetings. The Committee requested that Ms. Sylvester staff those meetings in behalf of Mr. Drechsel. Mr. Drechsel will make the necessary arrangements.

DRAFT

TAB 2

HR590 – Interns and Work Conflicts

NOTES: Continued discussion of new proposed HR policy to address intern work conflicts.

1 Interns and Work Conflicts Policy 590

2 PURPOSE

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

5 SCOPE

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

9 POLICY AND PROCEDURE

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

11
12 Interns may engage in other employment and volunteer activities that conflict with the interests
13 of the courts or create the appearance of a conflict of interest as defined in sections [500.8](#) and
14 [500.11](#), subject to the following conditions:

- 16 1. If an intern has worked or is working on a case ~~or issue~~, currently before the court in the
17 intern's other employment or volunteer work, the intern shall ~~notify the court, and the court~~
18 ~~shall refuse and be screened the intern~~ from the case ~~or issue~~.
- 19 2. If an intern ~~has worked or volunteered for, or~~ is currently working or volunteering for a law
20 firm or entity that has appeared or is appearing before the court, the intern shall ~~refuse~~
21 ~~notify the court, and the court shall be screened the intern~~ from any cases involving that law
22 firm or entity; ~~and any similar issues~~.

Commented [MCD1]: In the reverse, this policy appears to be saying that under certain circumstances the court is okay with intent employment conflicts "that conflict with the interests of the courts or create the appearance of a conflict of interest." Is there another way to articulate this that doesn't seem to endorse the conflict so directly?

Commented [MCD2]: The specific mention of screening based not only on case overlap, but also issue overlap (found in lines 16, 18, and 22) is meant to address the conflict that may arise if an intern has special insight in a non-conflict matter due to involvement in that same issue in another matter (e.g., two co-defendants from a single criminal episode appeal issues arising in their individual cases. One defendant is represented by Firm A, which firm also employs a court intern. The other defendant is represented by Firm B. The intern would be screened from the case involving Firm A, but should also be screened from the case involving Firm B because the ISSUES are similar in each case, even though the CASES are different).

Interns at the Courts

Interns can be selected in a variety of ways however there are practices that should be consistent throughout the state. Due to Department of Labor regulations regarding interns, paid vs unpaid interns will have slightly different experiences and we will need different information from each group.

Listed here are some of the Best Practices you should consider when you have an intern:

- Giving the intern real work assignments
- Involve the intern with your team
- Invite the internship coordinator to visit
- Conduct an exit interview, write an exit letter, and/or evaluation for feedback to and from the intern
- Provide the intern with opportunities to meet with members of upper management
- Offer training that is outside their assigned duties

Paid	Unpaid
During Recruitment	During Recruitment
Cover Letter/ Letter of Interest	Cover Letter/Letter of Interest
Resume	Resume
Prior to Starting Work	Prior to Starting Work
BCI (successful)	BCI (successful)
Within First 3 days	Within First 3 days
1-9	Personal Information Sheet
W-4	Internet Usage Form
Direct Deposit	Policy and Procedures Acknowledgement Form
Personal Information Sheet	Memorandum of Understanding
Internet Usage Form	Other Considerations
Policy and Procedures Acknowledgement Form	Should be similar to the training which would be given in an educational environment
Memorandum of Understanding	Should be for the primary benefit of the intern
	Intern cannot displace regular employees
	Intern is not entitled to a job at the end of the internship
	Employer derives no immediate advantage from the activities of the intern, and on occasion, its operations may be impeded

TAB 3

HR 480 – Employee Exercise Policy

NOTES: Presentation of policies from other agencies (still waiting on documents from Capitol Fitness Center).

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 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.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.

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



DEPARTMENT OF ADMINISTRATIVE SERVICES
INTERNAL POLICIES AND PROCEDURES

130 Exercise and Health Activity

Effective: June 13, 2014

Revised: April 11, 2018

References: Governor, State of Utah Memorandum dated 30 August 1993

Purpose:

The beneficial effects of regular exercise and other health related activities such as routine checkups and participation in health fairs is well documented. Such activities can be a significant factor in preventing disease, lowering stress, improving one's mental state and outlook on life as well as improving the general quality of life. In the job setting this equates to greater productivity and reduced absenteeism. Therefore, this policy is established to encourage participation in activities that promote a healthy lifestyle by employees within the Department of Administrative Services.

Policy:

1. The Department of Administrative services encourages all employees to engage in a *regular program* of physical exercise and health improvement of at least 30 minutes of continuous physical exercise per session.
2. DAS employees may participate in an approved program of compensated exercise release time. Approval for exercise time must be documented and acknowledged annually each June with DAS Form F130A, *Exercise and Health Activity Application*, a copy of which should be kept in the employee's Utah Performance Management (UPM) plan. Exercise agreements are subject to the following guidelines:
 - a. Compensated exercise release time for employees with four ten-hour schedules shall be limited to 30 minutes a day for a maximum of two days per week; Compensated release time for employees with five eight-hour schedules shall be limited to 30 minutes a day for maximum of three days per week;
 - b. The release time shall take place immediately adjacent to the employee's lunch period. Exceptions of this must be authorized by the division director should special circumstances warrant such action. The justification for granting the exception must be entered into the UPM;
 - c. The anticipated program must include physical exercise.
 - d. Employees are encouraged to seek medical advice regarding the type and vigor of their proposed exercise prior to the beginning of a program. Working out in a gym, structured aerobics, walking, jogging, or bicycling are examples of the types of exercise programs which qualify for approval;



- e. The employee's immediate supervisor shall be responsible for obtaining approval for the agreement from the employee's manager and division director or designee prior to implementing the exercise agreement;
 - f. Exercise release time is not cumulative. Time not used during the week cannot be carried over into another week;
 - g. Authorization to participate in this program shall be revoked if the provisions of this policy are violated, including 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;
 - h. Authorization to participate in this program shall be revoked if it interferes with an employee's ability to accomplish work assignments in a timely and accurate manner;
 - i. Authorization to participate in this program shall be revoked if the employee is placed on a Performance Improvement Plan (PIP), but may be reauthorized after successful completion of the PIP.
- 3. Only full-time employees with benefits are authorized to participate in this program.
 - 4. To ensure the department does not incur overtime costs unnecessarily, participation in this program will be suspended on weeks when an employee is working overtime.
 - 5. Exercise release time will be recorded as regular work time on time sheets.
 - 6. Employees assume all risks associated with participating in the department's exercise program. **Injuries incurred during the release time will not be considered a work related injury for purposes of workers' compensation benefits.**
 - 7. Employees are urged to attend other health improvement activities including health assessment workshops such as *Healthy Utah*, stress management, smoking cessation seminars, and weight control programs. Division directors are encouraged to provide flexible scheduling and opportunities for employees to attend such programs. Employees may be authorized up to three hours release time annually for *Healthy Utah* assessments and workshops.

DEPARTMENT OF AGRICULTURE AND FOOD 02.07 EXERCISE RELEASE TIME	
EFFECTIVE DATE: November 1, 2000	REVISION DATE: July 1, 2004
SUMMARY: Provides employees with release time during the day for physical activity.	

Aerobic exercise and other health improvement activities can be a significant factor in preventing disease and improving one's outlook on life. Some studies document that increased energy generated by aerobic exercise increases employee productivity. Therefore, in order to encourage employee participation in exercise and other health enhancing activities, the following policy is issued.

The UDAF encourages all of its employees to engage in a regular program of exercise and health improvement (unless existing medical conditions make such a program inadvisable).

With the written approval of the Division Director, employees who wish to exercise during the work day may be granted thirty minutes per day, for a maximum of three times per week (Employee Request for Exercise Time form). The time for this activity shall be determined by agreement between the employee and their immediate supervisor so as not to interfere with normal work requirements. Supervisors are encouraged to schedule working hours so that any employee who wishes to take an extended lunch hour or otherwise participate in an exercise program may do so. Examples of exercise programs that qualify for approval are structured aerobics, walking, jogging, running and bicycling. Work requirements may occasionally supersede this release from work time.

Supervisors may revoke the exercise program if the time allowed per week is abused or if the time is used for a purpose other than exercising.

DOH EXERCISE AND HEALTH ACTIVITY POLICY

A. PURPOSE:

Aerobic exercise and other health improvement activities can be a significant factor in preventing disease and improving one's outlook on life. Some studies document that increased energy generated by aerobic exercise increases employee productivity. Therefore, in order to encourage employee participation in exercise and other health enhancing activities, the following policy is issued.

B. POLICY:

1. The Utah Department of Health encourages all of its employees to engage in a regular program of exercise and health improvement (unless existing medical conditions make such a program inadvisable).
2. With the written approval of Bureau/Unit Director, employees who wish to exercise during the work day may be granted thirty minutes per day, for a maximum of three times per week (See Attachment #1 - Employee Request for Exercise Time). The time for this activity shall be determined by agreement between the employee and his/her immediate supervisor so as not to interfere with normal work requirements. Supervisors are encouraged, where possible, to schedule working hours such that any employee who wishes to participate in an exercise program may do so.
3. Exercise programs, such as structured aerobics, walking, jogging, swimming, and bicycling, and weight control programs, are examples of programs that qualify for approval. However, other appropriate exercise programs may be approved.
4. Supervisors are encouraged to contact the Healthy Utah Program if there is some concern regarding the appropriateness of activities for which approval is requested.
5. The immediate supervisor must approve schedule modifications or variations to the original Employee Request for Exercise and Health Activity Release Time.
6. Renewal or continuation of approval to participate in exercise and/or health activities subject to this policy shall be reviewed

annually, preferably during the employee's performance review.

7. Employees on formal corrective or disciplinary action are not eligible to participate in this program.
8. Employees needing information on exercise safety, personal exercise prescriptions and assessments are encouraged to call Healthy Utah at (801) 538-6261.

Attachment 1

**State of Utah
Department of Health**

**Employee Request For Exercise
And Health Activity Time**

In accordance with Department of Health Exercise and Health Activity Time Policy, I request permission to participate in the following health improvement program:

Health Activity	Location
_____	_____

The following time schedule will be observed:

Day(s) of the Week	_____	_____	_____
Times	_____	_____	_____

All terms of the Department policy on Exercise and Health Activity Time will be followed.

_____ Employee Signature	_____ Date
-----------------------------	---------------

_____ Print Name	_____ Employee ID #
---------------------	------------------------

*Approved:_____ Immediate Supervisor	_____ Date
---	---------------

*Approved:_____ Bureau/Unit Director	_____ Date
---	---------------

* Approval is an endorsement of policy intent and does not warrant or guarantee freedom from accident or injury.

cc: Personnel File

DEPARTMENT OF HUMAN SERVICES POLICY AND PROCEDURES		
Reference: 02-01	Effective Date: December 15, 1988 Revision Date: March 15, 2018	Page 1 of 2
SUBJECT: EXERCISE POLICY		
<p>RATIONALE: The purpose of this policy is to promote the general physical and emotional well being of the Department's employees by establishing an opportunity for employees to participate in a physical fitness exercise program which will:</p> <ol style="list-style-type: none"> Improve the overall physical health and well-being of employees Encourage a personal commitment among employees to adopt healthy activities as a permanent lifestyle Help reduce stress and the risk of cardiovascular disease factors in employees Improve productivity in the workplace, which will benefit both the Department and the employees Promote employee job satisfaction, and Attract and retain quality employees. 		

POLICIES

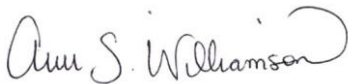
- The Department offers eligible employees the option of using 30 compensated minutes **per day on scheduled work days**, during scheduled work hours **for up to three days per week** to participate in this physical fitness exercise program.
- Only full time employees receiving benefits **and in good performance standing** are eligible to participate in an exercise program under this policy.
- Participation in the exercise program is neither an employee right nor a guaranteed benefit.
- Exercise time must be pre-approved by the employee's immediate supervisor to ensure that normal Department operations will be maintained. **This time is expressly for any appropriate physical fitness or aerobic exercise (strengthens heart and lungs accomplished by raising heart and breathing rates). It is not intended in any way to provide extra time for personal matters other than physical fitness exercise that consists of 30 consecutive minutes.**
- Approval to participate in this exercise program shall be documented in the Utah Performance Management system.
- Employees, with the approval of their supervisor, may use the 30 minutes in conjunction with their lunch and/or break time. 2011 version of the policy included an additional paragraph: "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, thus allowing them to leave early."
- 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.
- Exercise time is not cumulative (that is, unused exercise time not used during the week cannot be carried over into any subsequent day or week).
- To ensure the Department does not incur unnecessary overtime costs, participation in this program shall be suspended on weeks when an employee is required to work overtime.

DEPARTMENT OF HUMAN SERVICES POLICY AND PROCEDURES		
Reference: 02-01	Effective Date: December 15, 1988 Revision Date: March 15, 2018	Page 2 of 2
SUBJECT: EXERCISE POLICY		

- J. Workload demands may cause this program to be suspended either for a specific period of time or indefinitely.
- K. Employees participating in this program do so at their own risk. The Department is not responsible for any and all injuries, illnesses, and other consequences suffered by the employee while participating in this program.
- L. Injuries or illnesses occurring to employees during exercise time may be submitted to the Workers' Compensation Fund for a determination of coverage as an on-the-job injury.
- M. Employees are encouraged to consult with their personal physician to ensure they are physically capable of participating in this exercise program.
- N. Exercise during work time that is a bona fide job requirement is not subject to this policy.

PROCEDURES

- A. An employee requests approval from the supervisor to participate in this program. Supervisors may grant approval if normal operations are maintained, there are no safety concerns and customers are adequately served. Supervisors may approve fewer than three days based on the impact to the services provided for the specific area and/or the performance of the employee.
- B. An employee approved to participate in this program completes the "Department of Human Services Employee Fitness Agreement" and secures the signature of the supervisor.
- C. The supervisor will document the approval to participate in this exercise program in the Utah Performance Management system.
- D. An employee approved for participation in this program records exercise time as hours worked on the State of Utah Bi-Weekly electronic or paper time sheet.



Ann Silverberg Williamson, Executive Director
Department of Human Services

DATE March 15, 2018

DEPARTMENT OF HUMAN SERVICES
Employee Fitness Agreement

THIS AGREEMENT is made and entered into by and between the Department of Human Services (hereinafter "Department"), and _____(hereinafter "Employee").

WHEREAS, the Department has established an Exercise Policy emphasizing exercise for the benefit of its employees, and

WHEREAS, the Employee has voluntarily decided to participate in a physical fitness exercise program,

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

Employee agrees to participate in an exercise activity up to three times a week, for a period not less than one year beginning the day this form is signed. This time is expressly for any appropriate physical fitness or aerobic exercise (strengthens heart and lungs accomplished by raising heart and breathing rates). It is not intended in any way to provide extra time for personal matters other than physical fitness exercise that consists of 30 consecutive minutes. The days and times in which the undersigned employee participates in aerobic or physical fitness is approved by his/her supervisor in advance. The 2011 version of this policy contained a table outlining the days, time, and "exercise activity" the employee would be engaging in.

Participation in the exercise program is neither an employee right nor a guaranteed benefit. The supervisor may approve temporary or permanent changes to the exercise schedule agreement as needed.

1. Department will allow Employee a maximum of 30 minutes of exercise release time per day during up to three times a week to engage in an exercise program. The 30 minutes must be taken during the employee's scheduled work hours if pre-approved by the supervisor. The agreed upon time for the exercise activity shall be a fixed schedule and shall not change unless approved by the supervisor. The agreed upon schedule will not interfere with normal work requirements nor will participation in this program be allowed on weeks when an employee is required to work overtime.
2. If the Employee is unable to continue with the said exercise program due to injury, illness, or other reason agreed to by the supervisor, Employee may terminate this agreement at any time by submitting a written statement to his/her immediate supervisor.
4. Employee's immediate supervisor may also terminate this agreement at any time for any reason by notifying Employee in writing.

Dated this _____ day of _____, 20_____.

Supervisor

Employee



State of Utah

GARY R. HERBERT

Governor

GREG BELL

Lieutenant Governor

NEAL T. GOOCH

Insurance Commissioner

Insurance Department

INSURANCE DEPARTMENT EXERCISE POLICY

Background:

The Insurance Department recognizes that health promotion programs may increase employee morale, decrease absenteeism, lower medical utilization rate and, most important, increase our employees' chances of living healthy and productive lives.

Policy:

Division Supervisors may allow their employees one and one half hours per week exercise time within the following guidelines:

- 1.) Time off is expressly for exercise time. It may be used for any appropriate physical fitness promoting exercise.
- 2.) Exercise time is allowed only between the hours of 11:00 a.m. and 2:30 p.m. It must be divided into three, one half hour segments over three days each week. It is not cumulative and cannot be carried forward.
- 3.) A written exercise plan must be submitted and approved by the division Supervisor before exercise time is taken. At a minimum, the plan must identify the days and times the exercise time is requested, the reason for the exercise, and what the employee intends to accomplish. The employee must immediately notify the Division Supervisor if the plan is voluntarily modified or discontinued.
- 4.) Exercise time must be used consistently from week to week or the approval will automatically terminate. The Department recognizes that some scheduled exercise will be missed as a result of work related assignments and appointments.

This policy is intended to promote good health which should result **in increased productivity and better quality of life for all employees. It is not intended in any way to provide extra time for personal matters or other than physical fitness promotion. It is hoped that the employees will commit themselves to a regular program of fitness and health to include the cessation of smoking, or other practices injurious to health.**

Effective date: 11/19/2012

Neal T. Gooch, Commissioner

I have reviewed the Insurance Department Exercise Policy with my supervisor and I agree to abide by the guidelines of the policy as written.

Date: _____

Name: _____

PHYSICAL FITNESS

154.1 PURPOSE AND SCOPE

To establish the Department of Public Safety's policy regarding a voluntary physical fitness program for employees.

The Department recognizes the benefits of an employee attaining and maintaining good physical condition. Therefore, the Department encourages its employees to be involved in a personal physical fitness program. Employees should see their personal physician to ensure they are physically capable of participating in a physical fitness program.

154.2 GENERAL PROVISIONS

- (a) **Non-sworn full-time** employees may use **30 minutes** of work time per day, three days each week for exercise.
- (b) **Non-sworn part-time** employees may use **30 minutes** of work time per day, one day each week for exercise.
- (c) **Sworn** employees may use **60 minutes** of work time per day, three days each week OR **45 minutes** per day four days a week for exercise.
- (d) The physical fitness time must be time an employee is actually engaged in physical activity.
 1. The exercise time authorized by this policy is a privilege granted by management and is not a right conferred upon an employee.
 2. Employees must coordinate this activity with their immediate supervisor and submit a written plan outlining the employee's participation in the physical fitness program. This plan must be mutually agreed upon and approved by the immediate supervisor.
 3. The written plan shall be submitted and approved on an **"Employee Request for Exercise Time"** form ([click to open form](#)) prior to participating in this physical fitness program. The plan must contain, at a minimum, the following information:
 - (a) Type of physical activity;
 - (b) Time the activity will be conducted in conjunction with the employee's regularly scheduled shift; and
 - (c) How the employee will document the activity.
 4. The use of exercise time granted is to be used on each of the authorized days and may not be accumulated and taken in a lump sum. If an employee fails to exercise on one of the authorized days each week, they may not carry the unused time forward for use on another day.

Utah Department of Public Safety

Utah Dept of Public Safety Policy Manual

PHYSICAL FITNESS

5. Employee exercise periods authorized by this policy must not interfere with normal office functions or the organization's mission. Supervisors are encouraged to work cooperatively with employees in the scheduling of exercise times and should attempt to schedule this activity at a time that works well for the employee and has the least negative impact on the work environment. Sworn employees shall properly document physical activity in a daily activity log.
6. Employees who claim physical fitness time authorized under this policy and do not exercise during that time, will have their exercise privilege revoked by their supervisor, and may be subject to discipline.
7. Sworn members of the Department utilizing this exercise program privilege are required to participate in annual physical fitness evaluation testing.
8. Employees are encouraged to participate in an annual health assessment to help employees reach their fitness goals. This assessment can be completed through a family physician or the Healthy Utah program through PEHP insurance. Web link: <https://www.pehp.org/healthyutah>.

154.2.1 USE OF PHYSICAL FITNESS TIME FOR PHYSICAL THERAPY

- (a) Any employee functioning in a Temporary Transitional Assignment may be authorized to use the physical fitness hours allowed though this policy for physical therapy or rehab.
- (b) An employee engaged in physical therapy for a Workers Compensation Claim may be authorized physical fitness time as prescribed by a medical professional when the employee receives authorization from their chain of command prior to the physical therapy taking place.
- (c) Supervisors shall consult with Human Resource to ensure compliance with State Rules.
- (d) Any physical therapy or rehab that exceeds the authorized hours outlined in this policy shall take place on the employee's own time.

Document Information

Effective Date: August 27, 2008
Submitted By: Larene Wyss
Approved By: Michael Hussey
Section/Group: Human Resources

Categories

- [2000 - HR Policies](#)

Exercise Program

Document Revised: June 2, 2014

Document Description:

This policy and procedure is intended to encourage the development and maintenance of healthy lifestyles.

DTS POLICY 2000-0010

Document History

Next Review: June 2019
Reviewed Date: June 2018
Reviewed By: Cassandra Hart, DTS-HR
Authority: UCA 63F-1-106

1.0 Purpose

This policy and procedure is intended to encourage the development and maintenance of healthy lifestyles.

1.1 Background

The Department of Technology Services recognizes that worksite health promotion programs can increase employee morale, decrease absenteeism, lower medical utilization rates, and, most importantly, increase an employee's chances of living a healthy and productive life.

1.2 Scope

Full-time benefits-eligible employees of the Department of Technology Services (DTS) are eligible to participate in this program.

1.3 Exceptions

Employees on formal corrective or disciplinary action are not eligible to participate in this program.

2.0 Policy

DTS offers eligible employees the option of using a maximum of 30 minutes a day, three times weekly during their scheduled work hours, to participate in an exercise program. Participating employees, with the approval of their Supervisor, shall use the 30 minutes in conjunction with a lunch period which shall consist of a minimum of 30 minutes and a maximum of 60 minutes. Supervisors shall 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, thus allowing them to leave early.

2.1

Exercise time must be pre-approved by the employee's immediate Supervisor to ensure that normal department operations will be maintained. Authorization to participate in this program may be revoked if the provisions of the program are violated or if the program interferes with the employee's ability to complete work assignments.

2.2

This time is expressly for exercise and may be used for any appropriate physical fitness promoting exercise. It is not intended in any way to provide extra time for personal matters other than physical fitness exercise that consists of 30 consecutive minutes.

2.3

Exercise time is not cumulative (i.e., time not used during the week cannot be carried over into the next week, nor can an employee use more than 30 minutes on a given day).

2.4

Exercise time may not result in the accrual of Excess hours.

3.0 Procedure

3.1

An employee shall request permission from his or her Supervisor to participate in this program.

3.2

The supervisor and the employee approved to participate in this program shall complete an agreement in Utah Performance Management (UPM). Said agreement will be reviewed annually.

3.3

Exercise time under this program shall be recorded as administrative leave on an employee's timesheet.

Post Updated: August 27, 2018

Posted On: February 12, 2016

Physical Fitness

Effective: December 6, 1991

UDOT 05-74

Revised: February 9, 2015

Purpose

To define the policy of the Utah Department of Transportation (Department) regarding a voluntary physical fitness program for its employees.

Policy

The Department encourages its employees to participate in an appropriately prescribed physical fitness program. The Department may grant up to 90 minutes each workweek for an employee to participate in an exercise program to assist employees in this pursuit. An employee's participation in this program is not an implied right. The following will apply:

- A. Employees are encouraged to see their personal physician to ensure they are physically capable of participating in a physical fitness program.
- B. Employees must submit an approved Exercise Agreement Form (Form ADM-74) to the Region Administration group or Comptroller's Service Center prior to starting the program.
- C. Employees participating in the program may report compensated exercise time up to three days per week for 30 minutes each day, or up to two days per week for 45 minutes each day.
- D. Participation in this program will be suspended for FLSA non-exempt employees on weeks when the employee has more than 40 compensated hours, and for FLSA exempt employees on pay periods when the employee has more than 80 compensated hours.
- E. Exercise time is not cumulative. Exercise time not used cannot be saved or accumulated for later use.
- F. Employees on a formal corrective or disciplinary action process may not utilize the physical fitness program.
- G. Exercise time must be reported by using Activity 7G99.
- H. Employees assume all risks associated with participating in the Department's program. Injuries incurred during compensated exercise time will not be considered work-related injuries for purposes of workers compensation benefits.
- I. Exercise time may only be used during the employee's regularly scheduled workday.

- J. The Exercise Agreement form must be reviewed and renewed each fiscal year.

Utilization of the privileges granted by this policy will not interfere with normal work functions. Leaders may schedule working hours so that any employee who wishes to join an exercise program may do so where possible.

Background

This policy is in support of employees maintaining a healthy lifestyle consistent with Healthy Utah. The Department encourages employees to utilize Healthy Utah's resources, including seminars, health challenges, wellness programs, and annual testing sessions.

Rule R477-8-3 permits agencies to allow compensated release-time exercise for up to three days per week for 30 minutes, and requires participating agencies to maintain a written policy regarding exercise time.

Procedures

Physical Fitness

UDOT 05-74.1

Responsibility: Employee

Actions

1. Obtain approval from supervisor to participate in an exercise program during working hours. Approval must be given by use of the Department Exercise Agreement Form (Form ADM-74).

Responsibility: Immediate Supervisor

2. Approve or deny Form ADM-74.
3. Upload approved Form ADM-74 to Utah Performance Management system (UPM) as an attachment within the employee's current annual performance plan.
4. Send approved Form ADM-74 to the payroll support group (Region Administration group or Comptroller's Service Center).

Responsibility: Region Administration group, Comptroller's Service Center

5. Maintain original Form ADM-74 in payroll files until the end of the fiscal year.

Responsibility: Employee

6. Abide by all provisions of policy, including accurate time reporting using Activity 7G99.

Responsibility: Immediate Supervisor

7. Suspend participation in the program on weeks when the employee will have more than 40 compensated hours (if FLSA non-exempt) or on pay periods when the employee will have more than 80 compensated hours (if FLSA exempt).

Responsibility: Payroll accountants

8. Review payroll data and ensure that a valid Form ADM-74 is on file for employees who report exercise time, a maximum of 90 minutes per week of exercise time is reported, and that participation in the program has been suspended for FLSA non-exempt employees with over 40 compensated hours in the week and for FLSA exempt employees with over 80 compensated hours in the pay period.

Responsibility: Immediate Supervisor, Region or Group Leader

9. Revoke or suspend participation in the program if it is being abused, if it interferes with normal work functions, if it is not occurring during normal working hours, or if the employee is not using it for exercise.

Responsibility: Employee, supervisor

10. Repeat process at the start of each new fiscal year.

TAB 4

CJA 3-201.02

Court Commissioner Conduct Committee

NOTES: New draft prepared since December 7th meeting, based upon input from Court Commission Conduct Committee Chair

Rule 3-201.02. Court Commissioner Conduct Committee.**Intent:**

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

Applicability:

This rule shall apply to all trial courts of record.

Statement of the Rule:**(1) Court Commissioner Conduct Committee.**

(1)(A) The Court Commissioner Conduct Committee is established to:

(1)(A)(i) receive, review, and investigate any complaint filed against a court commissioner, other than complaints made pursuant to CJA 2-211;

(1)(A)(ii) conduct any hearing related to a complaint; and

(1)(A)(iii) make recommendations to the Council, the presiding judge, or both regarding sanctions or removal of the commissioner, pursuant to CJA 3-201, where the committee finds misconduct by a preponderance of the evidence. For purposes of this rule, "misconduct" means:

(1)(A)(iii)(a) action that constitutes willful misconduct in office;

(1)(A)(iii)(b) final conviction of a crime punishable as a felony under state or federal law;

(1)(A)(iii)(c) willful and persistent failure to perform commissioner duties; or

(1)(A)(iii)(d) conduct that is prejudicial to the administration of justice which brings the quasi-judicial office into disrepute.

~~(1)(A)(1)(B)~~ The Court Commissioner Conduct Committee shall consist of the following members:

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

~~(1)(A)(ii)(1)(B)(ii)~~ two presiding judges from judicial districts with a court commissioner, which presiding judges shall be from districts other than the district the commissioner primarily serves;

~~(1)(A)(iii)~~(1)(B)(iii) the immediate past Bar Commissioner ~~member of~~ the Judicial Council; and

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

~~(1)(B)(1)(C)~~ Circumstances ~~which that would~~ require recusal of a judge shall require recusal of a committee member from participation in committee action.

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

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

(1)(C)(iii) If the immediate past Bar Commissioner ~~member of~~ the Judicial Council is recused ~~or otherwise unable to serve~~, the chair shall temporarily appoint another past Bar Commissioner ~~member of~~ the Judicial Council.

(1)(C)(iv) If the chair of the Supreme Court Advisory Committee on Rules of Professional Conduct is recused ~~or otherwise unable to serve~~, the chair shall temporarily appoint another member of the Supreme Court Advisory Committee on Rules of Professional Conduct.

(1)(D) Three members of the committee constitute a quorum. Any action of a majority of the quorum constitutes the action of the committee. The chair shall vote only as necessary to break a tie vote. The committee shall be organized and meet only as often as necessary to resolve a complaint. Committee members may attend meetings in person, by telephone, by videoconference, or by other means approved in advance by the chair.

(2) Complaint Submission and Investigation.

(2)(A) A person who has a complaint against a commissioner shall deliver a copy of the complaint to the committee chair.

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

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

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

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

(2)(C) All proceedings and materials related to a complaint shall be kept confidential. The following individuals shall have access to the complaint, any preliminary

65 investigation report, any full investigation report, any final decision or
66 recommendation from the committee, and the hearing conducted in regard to the
67 complaint, as follows:

68 (2)(C)(i) the committee members;

69 (2)(C)(ii) the commissioner, if a full investigation is conducted;

70 (2)(C)(iii) the presiding judge of the district the court commissioner primarily
71 serves, if a full investigation is conducted;

72 (2)(C)(iv) the Presiding Officer of the Council, upon request or in connection
73 with the Judicial Council's authority and obligations under CJA Rules
74 2-211 or 3-201; and

75 (2)(C)(v) any other person upon approval of the committee or the Presiding
76 Officer of the Council.

77 (2)(D) Upon receiving a complaint, the chair shall make an initial review to determine if
78 the allegations raise any issue that would be appropriately addressed by the
79 committee.

80 (2)(D)(i) If a complaint should be addressed by another entity or individual, the
81 chair shall inform the complainant in writing, directing the complainant
82 to the appropriate entity or individual.

83 (2)(E) The chair, or a staff member designated by the chair, shall conduct a preliminary
84 investigation of the complaint. If the complaint is not sufficiently clear, the
85 investigator may request additional written information from the complainant.

86 (2)(E)(i) Upon completion of the preliminary investigation, the investigator shall
87 prepare a report. The report shall recommend a full investigation if
88 there is reasonable cause to support a finding of misconduct. In all
89 other cases, the report shall recommend that the complaint be
90 dismissed.

91 (2)(E)(ii) The investigator's report and recommendations shall be delivered to
92 the committee members for review. After review, a quorum shall vote
93 regarding whether the matter shall be the subject of a full
94 investigation. Any complaint not authorized for full investigation shall
95 be dismissed. The chair shall notify the complainant of the dismissal.

96 (2)(F) Within 10 days after a full investigation is authorized by the committee, the chair
97 shall notify the commissioner and the presiding judge of the district the

commissioner primarily serves that a full investigation has been authorized. The notice shall:

(2)(F)(i) inform the commissioner of the allegations;

(2)(F)(ii) invite the commissioner to respond to the allegations in writing within 20 days; and

(2)(F)(iii) include a copy of the complaint, the preliminary investigation report and recommendations, and any other information considered by the committee in determining whether to authorize a full investigation.

(2)(G) After the full investigation is completed, the committee shall review all relevant information to determine whether, upon reasonable cause to support a finding of misconduct, the matter should proceed to a hearing. Any matter that does not proceed to a hearing shall be dismissed. The chair shall notify the complainant, the commissioner, and the presiding judge of the dismissal.

~~(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 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.

(3)(A) The hearings of the committee 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)(A)(3)(B)~~ At any time before final decision by the committee, the commissioner may waive the hearing (if the hearing has not yet occurred), admit some or all of the allegations in the complaint, and enter into a stipulation with the committee regarding its findings and recommendations.

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

(3)(D) If the committee finds ~~the complaint to have merit~~ misconduct by a preponderance of the evidence, the committee shall prepare written recommendations to the Council and the presiding judges that ~~a include~~ proposed sanctions to be imposed under CJA Rule 3-201(6). ~~The committee shall dismiss any complaint found to be without merit. All other complaints shall be dismissed.~~

~~(4)(C)(3)(E)~~ At the conclusion of the committee's work, a copy of the complete file shall be delivered to the State Court Administrator, or designee.

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

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

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

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

~~(4)(B)(ii)~~ ~~T~~Within 30 days of the committee's findings and recommendations being delivered to the Council, ~~t~~he complainant, ~~the~~ commissioner, or presiding judges of the districts the commissioner serves shall file any objections to the committee's findings in writing with the Council.

~~(5)(B)(ii)~~(4)(B)(iii) No person is entitled to attend the Council meeting at which the complaint, findings, or recommendations ~~is~~are reviewed.

172 *Effective May/November 1, 20__*

TAB 5

Rule 7-302 – Social Studies

NOTES:

Rule 7-302. ~~Social studies~~Court Reports Prepared for Delinquency Cases.**Intent:**

To develop minimum standards for ~~social studies court reports to for~~ the Juvenile Court.

Applicability:

This rule shall apply to all ~~social studies court reports~~ prepared for ~~delinquent delinquency~~ cases in the Juvenile Courts.

Statement of the Rule:

- (1) The probation department or other agency designated by the court shall prepare a ~~social study court report~~ in writing in all cases in which a petition has been filed, ~~except:~~
 - ~~(1)(A) — traffic, fish and game, boating and parks and recreation cases; and~~
 - ~~(1)(B)(1)(A) — other minor cases, where the Board by rule has waived preparation of the social study.~~
- (2) The court can direct the probation department to prepare a ~~social study court report~~ on any matter referred to the court.
- (3) The contents of the ~~social study court report~~ shall include the following:
 - (3)(A) A summary of:
 - (3)(A)(i) the circumstances surrounding the matter before the court;
 - (3)(A)(ii) the minor's prior referral history, including prior actions taken by the probation department;
 - (3)(A)(iii) A record of any contacts and history the family has had with other agencies.;
 - (3)(A)(iv) the Victim Impact Statement and an itemized listing of losses or damages suffered by the victim with respect to the matter before the court;
 - (3)(A)(v) responses to the minor's compliant and non-compliant behavior;
 - (3)(A)(vi) A statement of the minor's academic performance and behavior in school and a statement of the minor's employment history if applicable;
 - (3)(A)(vii) A statement of any physical or emotional problems the minor may have that could affect behavior;
 - (3)(A)(viii) the minor's substance use history; and

- (3)(A)(i)(3)(A)(ix) ~~A list of the strengths and weaknesses of the minor as perceived by the minor and the parents or guardian(s).~~
- (3)(B) ~~A statement of the circumstances surrounding the matter before the court.~~
- (3)(C) ~~An itemized listing of loss or damage suffered by the victim with respect to the matter before the court.~~
- (3)(D)(3)(B) An assessment of:
- (3)(B)(i) the minor's attitude towards the court and the minor's attitude and values in general;
- (3)(B)(ii) ~~A statement of~~ the parents' attitude and what corrective action, if any, they took with respect to the minor's conduct and actions that which brought the minor before the court; and
- (3)(B)(iii) ~~A list of the strengths and weaknesses of the parents as they perceive them or guardian(s).~~
- (3)(E)(3)(C) ~~The minor's risk level as indicated by a validated risk and needs assessment, as well as a list of risk and protective factors.~~
- (3)(F)(3)(D) ~~Recommendations specific to the minor's risk level that consider restorative justice principles and evidence-based best practices.~~
- (3)(G)(3)(E) ~~Sentencing guideline results, including aggravating and mitigating factors. A statement of the minor's academic performance and behavior in school and a statement of the minor's employment history if applicable.~~
- (3)(H)(3)(F) ~~Any other relevant information. A record of any contacts the family has had with other agencies.~~
- (3)(I) ~~A list of strengths and weaknesses of the minor as perceived by the minor and the parents. A list of strengths and weaknesses of the parents as they perceive them.~~
- (3)(J) ~~A statement of any physical or emotional problems the minor may have that could affect behavior.~~
- (3)(K) ~~A dispositional recommendation based upon the information gathered.~~
- (4) All information contained in the social study court report should be verified whenever possible. Individuals providing information for the report should be identified and any opinions or unverified information should be identified as such.
- (5) No social information shall be gathered on a minor if the minor denies the allegations during the preliminary inquiry unless the minor and parent/guardian or custodian give their written consent for the information to be gathered.

Formatted

Rule 7-302

DRAFT: 12/31/2018

- 66 (6) No social information shall be provided to the court before the minor's case is adjudicated.
- 67 (7) Once the ~~social study court report~~ is prepared, it shall be electronically filed in the minor's
- 68 fileplaced in the minor's social file where it shall remain.
- 69 ~~(8) —If a minor moves to another judicial district, the social file shall be forwarded to the new~~
- 70 ~~district of residence.~~

71 *Effective May/November 1, 20__*

TAB 6

Public Comment Review for Proposed Rules

NOTES: Public comment (for all but the first of these rules) actually closes on January 4th right at noon, just as our meeting is set to start. Since November 20, no comments have been received for any of these rules. It is not anticipated that a large number of comments will come pouring in at the last minute.

As for CJA 4-409 (problem solving courts), public comment has closed for that rule. There was one comment from Richard Nance, the Director of the Utah County Division of Substance Abuse:

RE: Adult Drug Court Certification Checklist:

Required Rule # 28 – Re Chain of Custody should read ” establishes a chain of custody consistent with industry standards for each specimen” Drug court drug testing laboratories should not be required to adopt multiple chain of custody forms and procedures for different courts in the same jurisdiction.

Required Rule #31 – we need to avoid pejorative language. “clean” should be “negative.”

Presumed Rule #36 – “more than 15 but less than 125 active participants” This rule should be enforced for all drug court calendars.

Rule 4-409. Council Approval of Problem Solving Courts.

Intent:

To establish criteria for the creation and operation of problem solving courts, and to create a process for ongoing reporting from and evaluation of problem solving courts.

Applicability:

This rule applies to all trial courts.

Statement of the Rule:

(1) Definitions.

(1)(A) Applicant. As used in this rule, an applicant is the problem solving court judge, court executive, or other representative of the problem solving court as designated by the problem solving court judge.

(1)(B) Problem solving court. As used in ~~these~~ this rules, a problem solving court is a targeted calendar of similar type cases that uses a collaborative approach involving the court, treatment providers, case management, frequent testing or monitoring and ongoing judicial supervision. Examples include drug courts, mental health courts and domestic violence courts.

(2) **Initial application.** Prior to beginning operations, each proposed problem solving court must be approved by the Judicial Council and must agree to comply with ~~any published standards~~ the requirements of this rule. An application packet, approved by the Judicial Council, shall be made available by the Administrative Office of the Courts. This packet must be submitted to the Council for approval by the applicant at least 90 days in advance of the proposed operation of a new court.

(3) **Annual Report.** Existing problem solving courts must annually submit a completed annual report on a form provided by the Administrative Office of the Courts.

(3)(A) Each problem solving court shall annually report at least the following:

(3)(A)(i) The number of participants admitted in the most recent year;

(3)(A)(ii) The number of participants removed in the most recent year;

(3)(A)(iii) The number of participants that graduated or completed the program in the most recent year; and

(3)(A)(iv) Recidivism and relapse statistics for as long a period of time as is available, but at least for one year. If the court has been in existence

for less than one year, then for the amount of time the court has been in existence.

- (4) **Grants.** In addition to complying with the requirements of CJA Rule 3-411, an applicant shall notify the Judicial Council of any application for funds to operate a problem solving court, whether or not the court would be the direct recipient of the grant. This notification should be made before any application for funding is initiated.

(5) Requirements to Operate a Problem Solving Court. ~~Operation of the problem~~

~~solving court.~~ All problem solving courts ~~must~~ shall be required to adhere to the following requirements, ~~unless specifically waived by the Judicial Council:~~

(5)(A) Each problem solving court must adhere to the “Required Certification Criteria” outlined in the respective Certification Checklist applicable to that problem solving court, as promulgated and amended and approved by the Judicial Council.

(5)(B) Each problem solving court must adhere to the “Presumed Certification Criteria” outlined in the respective Certification Checklist applicable to that problem solving court, as promulgated and amended and approved by the Judicial Council, unless:

(5)(B)(i) the program can show sufficient compensating measures; or

(5)(B)(ii) the Judicial Council specifically waives that requirement.

~~(5)(C)~~ (5)(C) To commence participation in a problem solving court:

~~(5)(A)(i)~~ (5)(C)(i) In a criminal proceeding, a plea must be entered before a person may participate in the court. Testing and orientation processes may be initiated prior to the plea, but no sanctions may be imposed until the plea is entered other than those which may be imposed in a criminal proceeding in which a person is released before trial. Prior to the acceptance of the plea, each participant must sign an agreement that outlines the expectations of the court and the responsibilities of the participant.

~~(5)(A)(ii)~~ (5)(C)(ii) In juvenile dependency drug court, sanctions may not be imposed until the parent has signed an agreement that outlines the expectations of the court and the responsibilities of the participant.

~~(5)(B) Eligibility criteria must be written, and must include an assessment process that measures levels of addiction, criminality, and/or other appropriate criteria as a part of determining eligibility.~~

~~(5)(C) — The frequency of participation in judicial reviews will be based on the findings of the assessments. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable. Otherwise, judicial reviews should be conducted by the same judge each time.~~

~~(5)(D) — Compliance testing must be conducted pursuant to a written testing protocol that ensures reliability of the test results.~~

~~(5)(E) — Treatment must be provided by appropriately licensed or certified providers, as required by the Department of Human Services or other relevant licensure or certification entity.~~

~~(5)(F) — Each problem solving court must have written policies and procedures that ensure confidentiality and security of participant information. These policies and procedures must conform to applicable state and federal laws, including the Government Records and Access Management Act, HIPAA, and 42 CFR 2.~~

~~(5)(G) — Any fees assessed by the court must be pursuant to a fee schedule, must be disclosed to each participant and must be reasonably related to the costs of testing or other services.~~

~~(5)(H) — Courts must conduct a staffing before each court session. At a minimum, the judge, a representative from treatment, prosecutor, defense attorney, and in dependency drug court a guardian ad litem, must be present at each court staffing.~~

~~(5)(I) — At a minimum, the judge, a representative from treatment, prosecutor, defense attorney, and in dependency drug court a guardian ad litem, must be present at each court session.~~

~~(5)(J) — Each court must be certified by the Judicial Council every two years. Certification requires all courts to meet the minimum requirements stated in this rule.~~

(6) **Certification.** Each problem solving court must be considered for certification by the Judicial Council every two years. Each problem solving court shall cooperate with the Judicial Council's certification review process.

(6)(A) Upon review, the Judicial Council may:

(6)(A)(i) certify a problem solving court that adheres to all requirements as outlined in subsection (5) of this rule;

(6)(A)(ii) de-certify a problem solving court that fails to adhere to one or more requirements as outlined in subsection (5) of this rule; or

- 99 (6)(A)(iii) conditionally certify a problem solving court that fails to adhere to one
 100 or more requirements as outlined in subsection (5) of this rule;.
 101 (6)(B) To de-certify or conditionally certify a problem solving court, the Judicial Council
 102 shall:
 103 (6)(B)(i) inform the problem solving court of the requirement(s) that are not
 104 being adequately met; and
 105 (6)(B)(ii) provide to the problem solving court an opportunity to respond
 106 regarding the requirement(s) that are not being adequately met.
 107 (6)(C) In the event that the Judicial Council determines that the problem solving court
 108 should be conditionally certified, the Judicial Council shall:
 109 (6)(C)(i) outline specific conditions necessary for the problem solving court to
 110 meet in order to be certified; and
 111 (6)(C)(ii) provide the problem solving court with a specific period of time in
 112 which to remedy any such deficiency.
 113 (6)(D) In the event that a conditionally certified problem solving court fails to meet the
 114 conditions outlined by the Judicial Council within the time allotted, the Judicial
 115 Council:
 116 (6)(D)(i) shall de-certify the problem solving court; or
 117 (6)(D)(ii) may extend the period of time to remedy any deficiency, for good
 118 cause shown.
 119 ~~(6) — Evaluation and Reporting Requirements. Each problem solving court shall annually report~~
 120 ~~at least the following:~~
 121 ~~(6)(A) — The number of participants admitted in the most recent year;~~
 122 ~~(6)(B) — The number of participants removed in the most recent year;~~
 123 ~~(6)(C) — The number of participants that graduated or completed the program in the most~~
 124 ~~recent year; and~~
 125 ~~(6)(D) — Recidivism and relapse statistics for as long a period of time as is available, but~~
 126 ~~at least for one year. If the court has been in existence for less than one year,~~
 127 ~~then for the amount of time the court has been in existence.~~
 128 (7) **DUI Courts.** The following courts are approved as DUI Courts: Riverdale Justice Court
 129 and other courts as may be approved by the Judicial Council in the future.
 130 (8) **Communications.** A judge may initiate, permit, or consider communications, including ex
 131 parte communications, made as part of a case assigned to the judge in a problem-solving
 132 court, consistent with the signed agreement.

133 *Effective May/November 1, 20__*

UTAH JUDICIAL COUNCIL
UTAH ADULT DRUG COURT CERTIFICATION CHECKLIST
REVISED AND ADOPTED [MONTH DAY, YEAR]

Many of these ~~standards~~ criteria enumerated in this certification checklist are ~~direct~~ restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the BPS column following the standard, ~~and the citation to the section of the NADCP document in which the standard is found~~. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
<input type="checkbox"/>	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I. E D .
<input type="checkbox"/>	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
<input type="checkbox"/>	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
<input type="checkbox"/>	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
<input type="checkbox"/>	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. <i>* In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.</i>	III.E.
<input type="checkbox"/>	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. <i>* In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.</i>	III.E.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
<input type="checkbox"/>	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
<input type="checkbox"/>	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
<input type="checkbox"/>	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
<input type="checkbox"/>	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
<input type="checkbox"/>	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.EA.
<input type="checkbox"/>	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.EA.
<input type="checkbox"/>	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
<input type="checkbox"/>	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
<input type="checkbox"/>	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
<input type="checkbox"/>	<input type="checkbox"/>	31	The program requires at least 90 days clean to graduate.	
<input type="checkbox"/>	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
<input type="checkbox"/>	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
<input type="checkbox"/>	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, <u>as required by the Department of Human Services or other relevant licensure or certification entity.</u>	V.H.*
<input type="checkbox"/>	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
<input type="checkbox"/>	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
<input type="checkbox"/>	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
<input type="checkbox"/>	<input type="checkbox"/>	47	At a minimum, the prosecutor <u>/ assistant attorney general</u> , defense counsel, treatment representative, law enforcement, <u>a guardian ad litem (in dependency courts)</u> , and the judge attend each staffing meeting.	VIII.B.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	48	At a minimum, the prosecutor / <u>assistant attorney general</u> , defense counsel, treatment representative, law enforcement, <u>a guardian ad litem (in dependency courts)</u> , and the judge attend each Drug Court session.	VIII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII.B.
<input type="checkbox"/>	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
<input type="checkbox"/>	<input type="checkbox"/>	51	Court fees <u>are disclosed to each participant</u> , are reasonable, and <u>are</u> based on each participant's ability to pay. <u>Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services. See CJA 4-409(5)(G)</u>	
<input type="checkbox"/>	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule <u>and are disclosed to each participant</u> .	
<input type="checkbox"/>	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
<input type="checkbox"/>	<input type="checkbox"/>	54	<u>The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).</u>	<u>VIII.C.*</u>

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.
<input type="checkbox"/>	<input type="checkbox"/>	3	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
<input type="checkbox"/>	<input type="checkbox"/>	4	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
<input type="checkbox"/>	<input type="checkbox"/>	5	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
<input type="checkbox"/>	<input type="checkbox"/>	6	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
<input type="checkbox"/>	<input type="checkbox"/>	7	The Judge spends an average of at least three minutes with each participant.	III.F.*
<input type="checkbox"/>	<input type="checkbox"/>	8	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	9	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	10	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	11	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	12	Drug test results are available within 48 hours.	VII.H.
<input type="checkbox"/>	<input type="checkbox"/>	13	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
<input type="checkbox"/>	<input type="checkbox"/>	14	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
<input type="checkbox"/>	<input type="checkbox"/>	15	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	16	Standardized patient placement criteria govern the level of care that is provided.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	17	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	18	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
<input type="checkbox"/>	<input type="checkbox"/>	19	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	20	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	21	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
<input type="checkbox"/>	<input type="checkbox"/>	22	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
<input type="checkbox"/>	<input type="checkbox"/>	23	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	24	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	25	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	26	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	27	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	28	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	29	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	30	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
<input type="checkbox"/>	<input type="checkbox"/>	31	Clients are placed in the program within 50 days of arrest.	
<input type="checkbox"/>	<input type="checkbox"/>	32	Team members are assigned to Drug Court for no less than two years.	
<input type="checkbox"/>	<input type="checkbox"/>	33	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
<input type="checkbox"/>	<input type="checkbox"/>	34	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	35	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	36	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
<input type="checkbox"/>	<input type="checkbox"/>	37	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>	<input type="checkbox"/>	38	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
<input type="checkbox"/>	<input type="checkbox"/>	39	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
<input type="checkbox"/>	<input type="checkbox"/>	40	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
<input type="checkbox"/>	<input type="checkbox"/>	41	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
<input type="checkbox"/>	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
<input type="checkbox"/>	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
<input type="checkbox"/>	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
<input type="checkbox"/>	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
<input type="checkbox"/>	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.

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;

(1)(B)(iv)(k) one data processing manager; and
(1)(B)(iv)(l) one adult educator from higher education.
(1)(B)(iv)(m) The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.

(1)(B)(v) The Court Facility Planning Committee shall consist of:

(1)(B)(v)(a) one judge from each level of trial court;
(1)(B)(v)(b) one appellate court judge;
(1)(B)(v)(c) the state court administrator;
(1)(B)(v)(d) a trial court executive; ~~and~~
(1)(B)(v)(e) two business people with experience in the construction or financing of facilities; ~~and~~.
(1)(B)(v)(f) the court security director.

(1)(B)(vi) The Committee on Children and Family Law shall consist of:

(1)(B)(vi)(a) one Senator appointed by the President of the Senate;
(1)(B)(vi)(b) one Representative appointed by the Speaker of the House;
(1)(B)(vi)(c) the Director of the Department of Human Services or designee;
(1)(B)(vi)(d) one attorney of the Executive Committee of the Family Law Section of the Utah State Bar;
(1)(B)(vi)(e) one attorney with experience in abuse, neglect and dependency cases;
(1)(B)(vi)(f) one attorney with experience representing parents in abuse, neglect and dependency cases;
(1)(B)(vi)(g) one representative of a child advocacy organization;
(1)(B)(vi)(h) one mediator;
(1)(B)(vi)(i) one professional in the area of child development;
(1)(B)(vi)(j) one representative of the community;
(1)(B)(vi)(k) the Director of the Office of Guardian ad Litem or designee;
(1)(B)(vi)(l) one court commissioner;

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

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

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

(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.

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

271 *Effective May/November 1, 20____*

1 **Rule 2-208. Publication and Distribution.**

2 **Intent:**

3 To establish this Code as the official publication of all rules governing the administration of the
4 judiciary.

5 **Applicability:**

6 This rule shall apply to the judiciary.

7 **Statement of the Rule:**

8 (1) All rules of the Council, the Boards, and the local courts, as amended, shall be published
9 in this Code.

10 (2) The administrative office and all court executives shall, upon request:

11 (2)(A) direct any individual to the online publication of this Code on the court website;
12 and

13 (1)(A)(2)(B) provide access to this Code during business hours maintain a copy of this
14 Code and make it available for public inspection during business hours.

15 *Effective May/November 1, 20__*

Rule 3-103. Administrative Role of Judges.**Intent:**

To establish the administrative duties and responsibilities of individual judges.

Applicability:

This rule shall apply to all judges of courts of record and not of record.

Statement of the Rule:

- (1) It is the duty and responsibility of individual judges to cooperate with judges from all levels of courts, their presiding judges, their respective Boards, and the Council in the development and implementation of court policy, goals, and rules of administration.
- (2) In courts of record, it is the duty and responsibility of individual judges to consult with the presiding judge and to encourage court employees to consult with court executives on matters of judicial administration. In courts not of record, it is the responsibility of individual judges to consult with the presiding judge and to encourage court employees to consult with the justice court administrator on matters of judicial administration.
- (3) It is the duty and responsibility of individual judges to manage their court responsibilities consistently with the administrative goals of the Council and the fair and efficient administration of justice.
- (4) It is the duty and responsibility of individual judges to give prior notice of their absence from the court for vacation or education purposes to the presiding judge, to determine when additional administrative or judicial assistance is necessary, and to convey that need in a timely manner to the presiding judge.
- (5) In multi-judge jurisdictions, individual judges shall provide recommendations and directives to the court executive and the Administrative Office through the presiding judge.

Effective May/November 1, 20____

Rule 3-104. Presiding Judges.**Intent:**

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:**(1) Election and term of office.**

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

(2) Court organization.**(2)(A) Court en banc.**

- 31 (2)(A)(i) Multi-judge courts shall have regular court en banc meetings,
32 including all judges of the court and the court executive, to discuss
33 and decide court business. The presiding judge has the discretion to
34 excuse the attendance of the court executive from court en banc
35 meetings called for the purpose of discussing the performance of the
36 court executive. In single-judge courts, the judge shall meet with the
37 court executive to discuss and decide court business.
- 38 (2)(A)(ii) The presiding judge shall call and preside over court meetings. If
39 neither the presiding judge nor associate presiding judge, if any, is
40 present, the presiding judge's designee shall preside.
- 41 (2)(A)(iii) Each court shall have a minimum of four meetings each year.
- 42 (2)(A)(iv) An agenda shall be circulated among the judges in advance of the
43 meeting with a known method on how matters may be placed on the
44 agenda.
- 45 (2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a
46 majority of the judges may call additional meetings as necessary.
- 47 (2)(A)(vi) Minutes of each meeting shall be taken and preserved.
- 48 (2)(A)(vii) Other than judges and court executives, those attending the meeting
49 shall be by court invitation only.
- 50 (2)(A)(viii) The issues on which judges should vote shall be left to the sound
51 discretion and judgment of each court and the applicable sections of
52 the Utah Constitution, statutes, and this Code.
- 53 (2)(B) Absence of presiding judge. When the presiding judge and the associate
54 presiding judge, if any, are absent from the court, an acting presiding judge shall
55 be appointed. The method of designating an acting presiding judge shall be at
56 the discretion of the presiding judge. All parties that must necessarily be informed
57 shall be notified of the judge acting as presiding judge.
- 58 (3) **Administrative responsibilities and authority of presiding judge.**
- 59 (3)(A) **Generally.**
- 60 (3)(A)(i) The presiding judge is charged with the responsibility for the effective
61 operation of the court. He or she is responsible for the implementation
62 and enforcement of statutes, rules, policies and directives of the
63 Council as they pertain to the administration of the courts, orders of
64 the court en banc, and supplementary rules. The presiding judge has

the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

- (3)(A)(ii) Caseload. Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.
- (3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) Coordination of judicial schedules.

- (3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.
- (3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) Authority to appoint senior judges.

- (3)(C)(i) The presiding judge is authorized to use senior judge coverage for up to 14 judicial days if a judicial position is vacant or if a judge is absent due to illness, accident, or disability. Before assigning a senior judge, the presiding judge will consider the priorities for requesting judicial assistance established in Rule 3-108. The presiding judge may not assign a senior judge beyond the limits established in Rule 11-201(6).
- (3)(C)(ii) The presiding judge will notify the State Court Administrator when a senior judge assignment has been made.
- (3)(C)(iii) If more than 14 judicial days of coverage will be required, the presiding judge will promptly present to the State Court Administrator a plan for meeting the needs of the court for the anticipated duration of the vacancy or absence and a budget to implement that plan. The plan should describe the calendars to be covered by judges of the district, judges of other districts, and senior judges. The budget should

estimate the funds needed for travel by judges and for time and travel by senior judges.

(3)(C)(iv) If any part of the proposed plan is contested by the State Court Administrator, the plan will be reviewed by the Management Committee of the Judicial Council for final determination.

(3)(D) **Court committees.** The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(E) **Outside agencies and the media.**

(3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the ~~total~~ court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(F) **Docket management and case and judge assignments.**

(3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

(3)(G) **Court executives.**

(3)(G)(i) The presiding judge shall review the proposed appointment of the court executive made by the State Court Administrator and must concur in the appointment before it will be effective. The presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring in the appointment of a court executive.

(3)(G)(ii) The presiding judge for the respective court level and the state level administrator shall jointly develop an annual performance plan for the court executive.

(3)(G)(iii) Annually, the state level administrator shall consult with the presiding judge in the preparation of an evaluation of the court executive's performance for the previous year, also taking into account input from all judges in the district.

(3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the court executive, including coordination of annual leave.

(3)(G)(v) Pursuant to Council policy and the direction of the state level administrator, the court executive has the responsibility for the day-to-day supervision of the non-judicial support staff and the non-judicial administration of the court. The presiding judge, in consultation with the judges of the jurisdiction, shall coordinate with the court executive on matters concerning the support staff and the general administration of the court including budget, facility planning, long-range planning, administrative projects, intergovernmental relations and other administrative responsibilities as determined by the presiding judge and the state level administrator.

(3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of courtrooms and facilities.

(3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in consultation with the presiding judge, shall:

(3)(I)(i) coordinate the compilation of management and statistical information necessary for the administration of the court;

(3)(I)(ii) establish policies and procedures and ensure that court personnel are advised and aware of these policies;

(3)(I)(iii) approve proposals for automation within the court in compliance with administrative rules.

(3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall oversee the development of the budget for the court. In contract sites, the court executive shall supervise the preparation and management of the county budget for the court on an annual basis and in accordance with the Utah Code.

(3)(K) **Judicial officers.** In the event that another judge or commissioner of the court fails to comply with a reasonable administrative directive of the presiding judge, interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(L) **Cases under advisement.**

(3)(L)(i) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination. The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are

required to subsequently submit for the judge's signature a final order memorializing the decision.

(3)(L)(ii) Once a month each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Council.

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the presiding judge in the justice court of that judicial district and the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

Rule 3-111. Performance Evaluation of Active Senior Judges and Court Commissioners.**Intent:**

To establish a performance evaluation, including the criteria upon which active senior judges and court commissioners will be evaluated, the standards against which performance will be measured and the methods for fairly, accurately and reliably measuring performance.

To generate and to provide to active senior judges and court commissioners information about their performance.

To establish the procedures by which the Judicial Council will evaluate and certify senior judges and court commissioners for reappointment.

Applicability:

This rule shall apply to presiding judges, the Board of Justice Court Judges, and the Judicial Council, and to the active senior judges and court commissioners of the Court of Appeals, courts of record, and courts not of record.

Statement of the Rule:**(1) Performance evaluations.****(1)(A) Court commissioners.**

(1)(A)(i) On forms provided by the administrative office, the presiding judge of a district or court level a court commissioner serves shall complete an evaluation of the court commissioner's performance by June 1 of each year. If a commissioner serves multiple districts or court levels, the presiding judge of each district or court level shall complete an evaluation.

(1)(A)(ii) The presiding judge shall survey judges and court personnel seeking feedback for the evaluation. During the evaluation period, the presiding judge shall review at least five of the commissioner's active cases. The review shall include courtroom observation.

(1)(A)(iii) The presiding judge shall provide a copy of each commissioner evaluation to the Judicial Council. Copies of plans under paragraph (3)(G) and all evaluations shall also be maintained in the commissioner's personnel file in the administrative office.

- 31 (1)(B) **Active senior judges.** An active senior judge's performance shall be evaluated
32 by attorneys as provided in paragraph (3)(A) and by presiding judges and court
33 staff as provided in paragraph (3)(B).
- 34 (2) **Evaluation and certification criteria.** Active senior judges and court commissioners shall
35 be evaluated and certified upon the following criteria:
- 36 (2)(A) demonstration of understanding of the substantive law and any relevant rules of
37 procedure and evidence;
- 38 (2)(B) attentiveness to factual and legal issues before the court;
- 39 (2)(C) adherence to precedent and ability to clearly explain departures from precedent;
- 40 (2)(D) grasp of the practical impact on the parties of the commissioner's or senior
41 judge's rulings, including the effect of delay and increased litigation expense;
- 42 (2)(E) ability to write clear judicial opinions;
- 43 (2)(F) ability to clearly explain the legal basis for judicial opinions;
- 44 (2)(G) demonstration of courtesy toward attorneys, court staff, and others in the
45 commissioner's or senior judge's court;
- 46 (2)(H) maintenance of decorum in the courtroom;
- 47 (2)(I) demonstration of judicial demeanor and personal attributes that promote public
48 trust and confidence in the judicial system;
- 49 (2)(J) preparation for hearings or oral argument;
- 50 (2)(K) avoidance of impropriety or the appearance of impropriety;
- 51 (2)(L) display of fairness and impartiality toward all parties;
- 52 (2)(M) ability to clearly communicate, including the ability to explain the basis for written
53 rulings, court procedures, and decisions;
- 54 (2)(N) management of workload;
- 55 (2)(O) willingness to share proportionally the workload within the court or district, or
56 regularly accepting assignments;
- 57 (2)(P) issuance of opinions and orders without unnecessary delay; and
- 58 (2)(Q) ability and willingness to use the court's case management systems in all cases.
- 59 (3) **Standards of performance.**
- 60 (3)(A) **Survey of attorneys.**
- 61 (3)(A)(i) The Council shall measure satisfactory performance by a sample
62 survey of the attorneys appearing before the active senior judge or
63 court commissioner during the period for which the active senior judge
64 or court commissioner is being evaluated. The Council shall measure

satisfactory performance based on the results of the final survey conducted during a court commissioner's term of office, subject to the discretion of a court commissioner serving an abbreviated initial term not to participate in a second survey under Section (3)(A)(vi) of this rule.

(3)(A)(ii) **Survey scoring.** The survey shall be scored as follows.

(3)(A)(ii)(a) Each question of the attorney survey will have six possible responses: Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No Personal Knowledge. A favorable response is Excellent, More Than Adequate, or Adequate.

(3)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable responses by the total number of all responses, excluding the "No Personal Knowledge" responses. A satisfactory score for a question is achieved when the ratio of favorable responses is 70% or greater.

(3)(A)(ii)(c) A court commissioner's performance is satisfactory if: at least 75% of the questions have a satisfactory score; and the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

(3)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.

(3)(A)(iii) **Survey respondents.** The Administrative Office of the Courts shall identify as potential respondents all lawyers who have appeared before the court commissioner during the period for which the commissioner is being evaluated.

(3)(A)(iv) **Exclusion from survey respondents.**

(3)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under discipline shall not be a respondent in the survey.

(3)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may exclude an attorney from the list of respondents if the court commissioner believes the attorney will not respond objectively to the survey.

(3)(A)(v) **Number of survey respondents.** The Surveyor shall identify 180 respondents or all attorneys appearing before the court commissioner, whichever is less. All attorneys who have appeared before the active senior judge shall be sent a survey questionnaire as soon as possible after the hearing.

(3)(A)(vi) **Administration of the survey.** Court commissioners shall be the subject of a survey approximately six months prior to the expiration of their term of office. Court commissioners shall be the subject of a survey during the second year of each term of office. Newly appointed court commissioners shall be the subject of a survey during the second year of their term of office and, at their option, approximately six months prior to the expiration of their term of office.

(3)(A)(vii) **Survey report.** The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.

(3)(B) **Non-attorney surveys.**

(3)(B)(i) **Surveys of presiding judges and court staff regarding non-appellate senior judges.** The Council shall measure performance of active senior judges by a survey of all presiding judges and trial court executives, or in the justice courts, all presiding justice court judges and the justice court administrator~~Justice Court Administrator~~, of districts in which the senior judge has been assigned. The presiding judge and trial court executive will gather information for the survey from anonymous questionnaires completed by court staff on the calendars to which the senior judge is assigned and by jurors on jury trials to which the senior judge is assigned. The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be

based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

(3)(B)(ii) **Surveys of Court of Appeals presiding judge and clerk of court.**

The Council shall measure performance of active appellate senior judges by a survey of the presiding judge and clerk of court of the Court of Appeals. The presiding judge and clerk of court will gather information for the survey from anonymous questionnaires completed by the other judges on each panel to which the appellate senior judge is assigned and by the appellate law clerks with whom the appellate senior judge works. The Administrative Office of the Courts shall distribute the survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

(3)(C) **Case under advisement standard.** A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the senior judge or court commissioner for final determination. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the court.

(3)(C)(i) A senior judge or court commissioner in a trial court demonstrates satisfactory performance by holding:

- (3)(C)(i)(a) no more than three cases per calendar year under advisement more than 60 days after submission; and
- (3)(C)(i)(b) no case under advisement more than 180 days after submission.

(3)(C)(ii) A senior judge in the court of appeals demonstrates satisfactory performance by:

- (3)(C)(ii)(a) circulating no more than an average of three principal opinions per calendar year more than six months after submission with no more than half of the maximum exceptional cases in any one calendar year; and
- (3)(C)(ii)(b) achieving a final average time to circulation of a principal opinion of no more than 120 days after submission.

(3)(D) **Compliance with education standards.** Satisfactory performance is established if the senior judge or court commissioner annually complies with the judicial education standards of this Code, subject to the availability of in-state education programs. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the state court administrator.

(3)(E) **Substantial compliance with Code of Judicial Conduct.** Satisfactory performance is established if ~~the response of~~ the senior judge or court commissioner demonstrates substantial compliance with the Code of Judicial Conduct, if the Council finds the responsive information to be complete and correct and if the Council's review of formal and informal sanctions lead the Council to conclude the court commissioner is in substantial compliance with the Code of Judicial Conduct. Under Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from reappointment.

(3)(F) **Physical and mental competence.** Satisfactory performance is established if ~~the response of~~ the senior judge or court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

(3)(G) **Performance and corrective action plans for court commissioners.**

- (3)(G)(i) The presiding judge of the district a court commissioner serves shall prepare a performance plan for a new court commissioner within 30 days of the court commissioner's appointment. If a court commissioner serves multiple districts or court levels, the presiding judge of each district and court level shall prepare a performance plan. The performance plan shall communicate the expectations set forth in paragraph (2) of this rule.

(3)(G)(ii) If a presiding judge issues an overall “Needs Improvement” rating on a court commissioner’s annual performance evaluation as provided in paragraph (1), that presiding judge shall prepare a corrective action plan setting forth specific ways in which the court commissioner can improve in deficient areas.

(4) **Judicial Council certification process.**

(4)(A) **July Council meeting.** At its meeting in July, the Council shall begin the process of determining whether the senior judges and court commissioners whose terms of office expire that year meet the standards of performance provided for in this rule. The Administrative Office of the Courts shall assemble all evaluation information, including:

(4)(A)(i) survey scores;

(4)(A)(ii) judicial education records;

(4)(A)(iii) self-declaration forms;

(4)(A)(iv) records of formal and informal sanctions;

(4)(A)(v) performance evaluations, if the commissioner or senior judge received an overall rating of Needs Improvement; and

(4)(A)(vi) any information requested by the Council.

(4)(B) **Records delivery.** Prior to the meeting the Administrative Office of the Courts shall deliver the records to the Council and to the senior judges and court commissioners being evaluated.

(4)(C) **July Council meeting closed session.** In a session closed in compliance with Rule 2-103, the Council shall consider the evaluation information and make a preliminary finding of whether a senior judge or court commissioner has met the performance standards.

(4)(D) **Certification presumptions.** If the Council finds the senior judge or court commissioner has met the performance standards, it is presumed the Council will certify the senior judge or court commissioner for reappointment. If the Council finds the senior judge or court commissioner did not meet the performance standards, it is presumed the Council will not certify the senior judge or court commissioner for reappointment. The Council may certify the senior judge or court commissioner or withhold decision until after meeting with the senior judge or court commissioner.

(4)(E) **Overcoming presumptions.** A presumption against certification may be overcome by a showing of good cause to the contrary. A presumption in favor of certification may be overcome by:

(4)(E)(i) reliable information showing non-compliance with a performance standard; or

(4)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to demonstrate lack of substantial compliance with the Code of Judicial Conduct.

(4)(F) **August Council meeting.** At the request of the Council the senior judge or court commissioner challenging a non-certification decision shall meet with the Council in August. At the request of the Council the presiding judge shall report to the Council any meetings held with the senior judge or court commissioner, the steps toward self-improvement identified as a result of those meetings, and the efforts to complete those steps. Not later than 5 days after the July meeting, the Administrative Office of the Courts shall deliver to the senior judge or court commissioner being evaluated notice of the Council's action and any records not already delivered to the senior judge or court commissioner. The notice shall contain an adequate description of the reasons the Council has withheld its decision and the date by which the senior judge or court commissioner is to deliver written materials. The Administrative Office of the Courts shall deliver copies of all materials to the Council and to the senior judge or court commissioner prior to the August meeting.

(4)(G) **August Council meeting closed session.** At its August meeting in a session closed in accordance with Rule 2-103, the Council shall provide to the senior judge or court commissioner adequate time to present evidence and arguments in favor of certification. Any member of the Council may present evidence and arguments of which the senior judge or court commissioner has had notice opposed to certification. The burden is on the person arguing against the presumed certification. The Council may determine the order of presentation.

(4)(H) **Final certification decision.** At its August meeting in open session, the Council shall approve its final findings and certification regarding all senior judges and court commissioners whose terms of office expire that year.

(4)(I) **Communication of certification decision.** The Judicial Council shall communicate its certification decision to the senior judge or court commissioner.

268 The Judicial Council shall communicate its certification decision for senior judges
269 to the Supreme Court and for court commissioners to the presiding judge of the
270 district the commissioner serves.

271 *Effective May/November 1, 20____*

Rule 3-106. Legislative Activities.**Intent:**

To identify the Council as the principal authority for establishing and representing the position of the judiciary in legislative matters.

To identify the role of other offices and entities within the judicial branch in legislative matters.

To establish a procedure for considering legislative initiatives by the judiciary.

To establish a procedure for agencies, groups, and individuals to seek Council review of legislative initiatives.

Applicability:

This rule shall apply to the legislative activities of the judiciary.

Statement of the Rule:**(1) Authority and responsibility of the council.**

(1)(A) The Judicial Council or its Liaison Committee shall be the authority for establishing and representing the position of the judiciary in legislative matters.

(1)(B) The Council shall be the principal authority for coordinating judicial participation in legislative matters.

(1)(C) The Council shall schedule time prior to the legislative session to consider those legislative items proposed for Council action by the Liaison Committee and the Boards.

(1)(D) The Council may endorse, oppose, ~~amend~~ recommend amendments to, or take no position on proposed legislative initiatives. The Council shall limit its consideration of legislative matters to those which affect the Constitutional authority, the statutory authority, the jurisdiction, the organization, or the administration of the judiciary.

(2) Responsibility of presiding officer of council.

(2)(A) The presiding officer shall be responsible for representing the interest of the judiciary through the presentation of "The State of the Judiciary" speech during the regular session of the legislature.

(2)(B) The presiding officer shall be responsible for overseeing the day to day legislative activities of the Court Administrator.

(3) Authority and responsibility of liaison committee.

(3)(A) The Liaison Committee shall meet periodically throughout the year and regularly during the legislative session to consider proposed legislative initiatives which affect the judiciary. The Liaison Committee shall recommend positions to the Council and is authorized to take positions on behalf of the Council when the exigencies of the legislative process preclude full discussion of the issues by the Council.

(3)(B) Any individual, group or agency may request that the Council consider proposed legislative initiatives by transmitting a copy of the legislation with their request to the State Court Administrator. The State Court Administrator shall submit the request to the Liaison Committee. The Liaison Committee shall review the legislative initiative, recommend whether the matter should be placed on the Council agenda, recommend whether a guest should be invited to explain the issues involved, and recommend a position to the Council.

(4) Authority and responsibility of the boards.

(4)(A) Boards may direct the staff of the Administrative Office to prepare legislation and may recommend that legislation to the Council. The Boards may also review legislative issues and recommend positions to the Council, but may not take public positions independent of the Council.

(5) Authority and responsibility of the court administrator.

(5)(A) Consistent with this Code and the policies and priorities of the Council, the Court Administrator shall act as the official spokesperson for the judiciary and is authorized to negotiate, on behalf of the Council, positions related to budget and legislative matters.

(5)(B) Under the direction of the Council, the Court Administrator is responsible for coordinating all interaction between the judiciary and the legislative branch including the following:

(5)(B)(i) scheduling meetings between the Council and the legislative branch;

(5)(B)(ii) meeting with legislators and other representatives of the legislative branch to convey the position of the judiciary; and

(5)(B)(iii) calling on individual judges to participate in legislative activities.

Rule 3-107. Executive Branch Policy Initiatives.**Intent:**

To identify the Council or its designee as the sole authority for establishing and representing the position of the judiciary to the executive branch on policy initiatives.

To identify the role of other judicial offices and entities in executive branch policy making.

To establish a procedure for judicial consideration of executive branch policy initiatives.

To establish a procedure for agencies, groups, and individuals to seek Council review of executive branch policy initiatives.

Applicability:

This rule shall apply to the judiciary's involvement in executive branch policy making.

Statement of the Rule:**(1) Authority and responsibility of the council and its liaison committee.**

(1)(A) The Council shall establish and represent the position of the judiciary to the executive branch on executive branch policy initiatives.

(1)(B) The Council may endorse, oppose, recommend amendments to, or take no position on proposed executive policy initiatives. The Council shall limit its consideration of executive action to that which affects the Constitutional authority, the statutory authority, the jurisdiction, the organization, or the administration of the judiciary.

(2) Authority and responsibility of the boards.

(2)(A) Boards may review proposed executive policy initiatives and recommend positions to the Council, but may not take public positions independent of the Council.

(3) Authority and responsibility of the court administrator.

(3)(A) Consistent with this Code and the policies and priorities of the Council, the Court Administrator shall act as the official spokesperson for the judiciary and is authorized to negotiate, on behalf of the Council, positions related to budget and other executive matters.

(3)(B) Under the direction of the Council, the Court Administrator is responsible for coordinating all interaction between the judiciary and the executive branch including the following:

- (3)(B)(i) scheduling meetings between the Council and the executive branch;
- (3)(B)(ii) meeting with representatives of the executive branch to convey the position of the judiciary;
- (3)(B)(iii) calling on individual judges to participate in executive branch activities; and
- (3)(B)(iv) receiving requests for Council consideration of executive initiatives from interested individuals, groups, or agencies.

(4) **Authority of individual judicial officers and employees.**

- (4)(A) Nothing in this rule shall be construed to prohibit individual judges, court administrators, or court executives from meeting with representatives of the executive branch on an individual basis to resolve local management or administrative issues consistently with Council policy and the provisions of this Code.

Effective May/November 1, 20__

Rule 3-413. Judicial Library Resources.**Intent:**

To establish minimum standards for legal reference materials to be provided to judicial and quasi-judicial officers and court employees.

To establish acquisition, distribution and budgetary responsibilities for the legal reference materials identified in this rule for the state law librarian.

To realize financial advantages through the use of high volume purchases of regularly used legal reference materials

Applicability:

This rule shall apply to the state law library, all judges and commissioners of courts of record and not of record, and all court employees.

Statement of the Rule:**(1) State Law Library.**

(1)(A) The State Law Library shall be supervised and administered by the state law librarian under the general supervision of the Appellate Court Administrator.

(1)(B) The state law librarian shall facilitate the purchase of the electronic research resources and print publications authorized by this rule and arrange to have them distributed in accordance with this rule.

(2) Responsibility for providing judicial library resources.**(2)(A) Electronic research resources.**

(2)(A)(i) The state court administrator shall provide access to approved electronic research resources, including commercial legal databases.

(2)(A)(ii) All judges of courts of record, judges of courts not of record, court commissioners, and staff attorneys shall have access to these electronic research resources. Other employees may receive access to these resources based upon a demonstrated need and supervisor authorization.

(2)(B) Authorized Print publications. The following officials or locations are authorized to receive the print publications, which shall be provided by the state court administrator, unless specifically noted below, as indicated follows:

(2)(B)(i) Judges of courts of record:

- (2)(B)(i)(a) one set of the Utah Code Annotated, one set of the Utah Code Unannotated, and one set of the Utah Court Rules Annotated; or
- (2)(B)(i)(b) two sets of the Utah Code Unannotated and one set of the Utah Court Rules Annotated.
- (2)(B)(ii) **Court commissioners:** two sets of the Utah Code Unannotated and one set of Utah Court Rules Annotated.
- (2)(B)(iii) **Active senior judges:** one set of the Utah Code Unannotated, paid for by the Administrative Office of the Courts.
- (2)(B)(iv) **Staff attorneys:** one set of the Utah Code Unannotated and one set of Utah Court Rules Annotated.
- (1)(A)(i)(2)(B)(v) **Courts without a permanently-sitting judge:** two sets of the Utah Code Unannotated and one set of Utah Court Rules Annotated.
- (1)(A)(ii) ~~a current set of the softbound Utah Code Unannotated for each justice, judge, and commissioner of the courts of record for use in the justice's, judge's, or commissioner's principal courtroom or hearing room and additional sets as needed for actively used courtrooms and hearing rooms, the administrative office library, the Supreme Court and Court of Appeals chambers libraries, senior judges on active status, staff of the administrative office and other senior managers as determined by the state court administrator, and central staff attorneys;~~
- (1)(A)(iii) ~~one set of Utah Code Annotated 1953 with annual supplements, indexes, rules, and replacement volumes to justices, judges, and commissioners of the courts of record, staff of the administrative office and other senior managers as determined by the state court administrator, central staff attorneys, appellate court law clerks at a ratio of one set for two clerks, the administrative office library, and the Supreme Court and Court of Appeals chambers libraries;~~
- (1)(A)(iv) ~~one copy of the Utah Court Rules Annotated for senior judges on active status, staff of the administrative office and other senior managers as determined by the state court administrator, the~~

Formatted: Default Paragraph Font

Commented [MCD1]: First district (Randolph)
 Second district (Morgan)
 Fourth District (Fillmore, Nephi, Heber Juvenile)
 Fifth district (Beaver)
 Sixth district (Junction, Kanab, Loa, Manti, Panguitch)
 Seventh district (Castle Dale, Monticello)
 Eighth district (Manila)

administrative office library, and the Supreme Court and Court of Appeals chambers libraries; and
(1)(A)(v) — one set of the Utah Reporter to justices, judges, and central staff attorneys of the Supreme Court and Court of Appeals and a sufficient number for the research needs of the trial courts of record.

(1)(B) — The office of legislative printing. The current policy of the Office of Legislative Printing is to provide the set of Utah Code Annotated 1953 with annual supplements, indexes, rules, and replacement volumes to all justices and judges of courts of record referred to in paragraph (1)(A)(iv) of this rule. The state law librarian shall coordinate the distribution of these materials with the judges and the Office of Legislative Printing.

(1)(C)(2)(C) — **Publisher's complimentary copies.** The ~~current policy of the~~ publisher of the Pacific Reporter ~~is to provide~~ currently provides complimentary volumes to appellate judges as of the date of the judge's appointment to the appellate court. The state law librarian shall coordinate the distribution of these materials with the judges and the publisher.

(1)(D) — ~~State law library. Except for copies furnished as indicated in paragraphs (1)(B) and (C) of this rule and the purchasing authority described in paragraphs (1)(E), (F), and (G), the state law librarian shall purchase the publications authorized by this rule and distribute them in accordance with this rule.~~

(1)(E)(2)(D) — **Counties.** Each county shall provide a current copy of either the Utah Code Annotated with annual updates or the softbound Utah Code Unannotated to each county justice court judge serving within that county. Each county operating a court of record under contract with the administrative office of the courts shall provide the judge with access to the local law library pursuant to Section 78A-5-111.

(1)(F) — **Municipalities.** Each municipality shall provide a current copy of either the Utah Code Annotated with annual updates or the softbound Utah Code Unannotated to each municipal justice court judge serving within that municipality. Each municipality operating a court of record under contract with the administrative office of the courts shall provide the judge with access to the local law library pursuant to Section 78A-5-111.

~~(1)(G)(2)(E)~~ Counties and municipalities contracting with justice court judges. Each county and municipality which contracts with a justice court judge pursuant to Utah Code Ann. Section 78A-7-202 shall provide, at the location used by the judge within the county or municipality, either the Utah Code Annotated with annual updates or the softbound Utah Code Unannotated.

~~(1)(H)~~—

~~(1)(I)(2)(F)~~ Administrative office of the courts. The administrative office of the courts shall provide a Justice Court Manual, updated biannually, to each judge of a court not of record. ~~Law libraries.~~

~~(1)(J)~~ The State Law Library shall be supervised and administered by the state law librarian under the general supervision of the Appellate Court Administrator.

~~(1)(K)~~ The Appellate Courts' Chambers Library shall be maintained by the State Law Library, and the Appellate Courts shall pay for the materials in that collection.

~~(1)(L)~~ The Council may authorize the establishment of chambers law libraries for trial courts of record, provide update services consistent with funding limitations and adopt minimum standards for those libraries.

~~(1)(M)~~ For purposes of this rule, "chambers libraries" means those law libraries which are established and maintained for the exclusive use of judicial officers and employees and are not available for use by members of the public.

~~(2)(3)~~ **Budget Procedures.**

~~(3)(A)~~ The state law librarian shall separately account for:

~~(3)(A)(i)~~ the operating budget for the state law library;

~~(3)(A)(ii)~~ the costs associated with access to electronic research resources in subsection (2)(A); and

~~(3)(A)(iii)~~ the costs associated with the purchase of print publications in subsection (2)(B), trial court operations, appellate court operations, and administrative operations.

~~(2)(A)(3)(B)~~ Funds appropriated or allocated for purchasing in accordance with subsections (2)(A) and (2)(B) to the appellate court, trial court, or administrative operations shall not be used to supplement the appropriation to the state law library.

~~(2)(B)(3)(C)~~ The purchase of electronic research resources and print publications to fully implement the provisions of this rule shall be limited by the availability of funds.

~~(2)(C)(3)(D)~~ Any publication purchased with public funds shall be the property of the court and not the property of any official. Publications provided to an official without charge to the state shall be the personal property of the official.

~~(2)(D) Upon request of a justice, judge, commissioner or court employee, the state law librarian shall make available legal reference publications or photocopies or facsimile copies thereof for the use of the requesting party. The state law librarian shall develop procedures for the control of publications removed from the library.~~

~~(2)(E) The state court administrator shall notify the state law librarian whenever there is a change to the list of senior judges on active status. The court executive shall notify the state law librarian whenever there is a change in the personnel authorized by this rule to receive publications.~~

~~(3) Electronic data base legal research. The state court administrator shall, as funds permit, develop access to legal reference materials stored on electronic data bases. As such access is developed subscriptions to duplicative hard copy publications shall be discontinued.~~

Effective May/November 1, 20__

Rule 3-501. Insurance Benefits Upon Retirement.**Intent:**

To establish uniform policies regarding sick leave for justices, judges, and court commissioners and conversion of sick leave to paid up medical, dental and life insurance at the time of retirement.

Applicability:

This rule shall apply to all justices, judges, and court commissioners of courts of record.

Statement of the Rule:**(1) Earned benefits.**

(1)(A) For each year of full-time employment that a justice, judge, or court commissioner uses less than four days of sick leave in a calendar year, the judge, justice, or court commissioner will be eligible for and accumulate eight months of paid up medical insurance, dental insurance, prescription drug insurance and life insurance benefits at the time of retirement. Upon retirement, the submission of an annual application and a showing that the judge, justice, or court commissioner is not otherwise covered by a comparable medical insurance policy, the judge, justice, or court commissioner shall be eligible for and receive the insurance benefits which have accrued.

(1)(B) Maternity leave and parental leave is considered sick leave for determining benefits under this rule.

(1)(C) Medical and dental insurance coverage provided will be the same as that carried by the justice, judge, or court commissioner at retirement, i.e., family, two party, single.

(2) **Automatic benefits.** Notwithstanding the provisions of paragraph (1), a justice, judge, or court commissioner who retires and who is eligible for retirement benefits at the time of retirement shall receive a maximum of five years medical insurance, dental insurance, prescription drug insurance and life insurance .

(3) Duration of benefits.

(3)(A) The duration of benefits shall be calculated from the effective date of the justice's, judge's or court commissioner's retirement. Earned benefits shall not

- 31 exceed seven years. Automatic benefits shall not exceed five years. Earned
32 benefits and automatic benefits shall not exceed seven years.
- 33 (3)(B) Earned benefits and automatic benefits shall terminate when the justice, judge,
34 or commissioner is eligible for Medicare, except that prescription drug insurance
35 and supplemental Medicare insurance shall continue for the balance of the term
36 of earned or automatic benefits.
- 37 (3)(C) If the spouse of the justice, judge, or court commissioner qualifies for medical
38 insurance, prescription drug insurance or dental insurance under subsection
39 (1)(C), such insurance shall continue for the period of earned or automatic
40 benefits or until the spouse becomes eligible for Medicare, whichever is earlier,
41 except that prescription drug insurance and supplemental Medicare insurance for
42 the spouse shall continue for the balance of the term of earned or automatic
43 benefits.
- 44 (3)(D) Benefits for dependents of the justice, judge, or court commissioner terminate
45 when the justice, judge, or court commissioner reaches age 65.
- 46 (4) As authorized by Utah Code Section 78A-2-107(9), the Court Administrator will develop
47 methods for recording sick leave use by justices, judges, and court commissioners and for
48 recording sick leave conversion to paid up medical, dental and life insurance benefits.
- 49 (5) **Active Senior Judge incentive benefit.**
- 50 (5)(A) The judiciary will pay 50% of the cost of medical and dental insurance premiums
51 for a qualifying senior judge and spouse until the qualifying senior judge is age
52 65. The judiciary will pay 50% of the cost of supplemental Medicare insurance
53 and prescription drugs for a qualifying senior judge and spouse if the senior
54 judge is age 65 or older.
- 55 (5)(B) To qualify for the incentive benefit the senior judge must:
- 56 (5)(B)(i) qualify as an active senior judge pursuant to Rule 11-201;
- 57 (5)(B)(ii) have exhausted the other benefits provided for by this rule;
- 58 (5)(B)(iii) submit to the state court administrator or designee on or before July 1
59 of each year a letter expressing an intent to participate in the incentive
60 benefit program;
- 61 (5)(B)(iv) perform case work, subject to being called, for at least 6 days per
62 fiscal year; and

63 (5)(B)(v) show good cause to the Judicial Council why he or she should not be
64 disqualified for the incentive benefit upon declining three times within
65 any fiscal year to accept case work.

66 (5)(C) The State Retirement Office shall deduct from the active senior judge's
67 retirement benefit the portion of the cost payable by the active senior judge.

68 (6) This policy will be implemented subject to availability of funds.

69 *Effective May/November 1, 20__*

Rule 4-202.09. Miscellaneous.**Intent:**

To set forth miscellaneous provisions for these rules.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) The judicial branch shall provide a person with a certified copy of a record if the requester has a right to inspect it, the requester identifies the record with reasonable specificity, and the requester pays the fees.

(2) Fulfilling a records request.

(2)(A) The judicial branch is not required to create a record in response to a request.

(2)(B) Upon request, the judicial branch shall provide a record in a particular format if:

(2)(B)(i) it is able to do so without unreasonably interfering with its duties and responsibilities; and

(2)(B)(ii) the requester agrees to pay the additional costs, if any, actually incurred in providing the record in the requested format.

(2)(C) The judicial branch need not fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(3) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the judicial branch may provide the requester with the facilities for copying the requested records and require that the requester make the copies, or allow the requester to provide his own copying facilities and personnel to make the copies at the judicial branch's offices and waive the fees for copying the records.

(4) The judicial branch may not use the form in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record.

(5) Subject to the Government Records Access Management Act (GRAMA) and Chapter 4, Article 2 of the Code of Judicial Administration, a request for email correspondence shall be sufficiently detailed to identify the email(s) sought with reasonable specificity. The request shall be narrowly tailored to yield a search that is not unduly burdensome. Requests shall include the subject matter of the email(s), the identity of individuals to

whom the email(s) were sent or received, if known, and the date, or approximate date(s) of email(s). Upon receipt of a request, the person handling the request will forward it to the Court Information Technology Department, a representative of which will develop the parameters of the search.

(6) Subpoenas and other methods of discovery under state or federal statutes or rules of procedure are not records requests under these rules. Compliance with discovery shall be governed by the applicable statutes and rules of procedure.

(7) If the judicial branch receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, it shall allow access to the information in the record that the requester is entitled to inspect, and shall deny access to the information in the record the requester is not entitled to inspect.

(8) The Administrative Office shall create and adopt a schedule governing the retention and destruction of all court records.

(9) The courts will use their best efforts to ensure that access to court records is properly regulated, but assume no responsibility for accuracy or completeness or for use outside the court.

(10) Non-public information in a public record.

(10)(A) The person filing a public record shall omit or redact non-public information. ~~The person filing a private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social record shall identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.~~

(10)(B) A party may move or a non-party interested in a record may petition to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social or to redact non-public information from a public record.

(10)(C) If the following non-public information is required in a public record, only the designated information shall be included:

(10)(C)(i) social security number: last four digits;

(10)(C)(ii) financial or other account number: last four digits;

(10)(C)(iii) driver's license number: state of issuance and last four digits;

(10)(C)(iv) address of a non-party: city, state and zip code;

(10)(C)(v) email address or phone number of a non-party: omit; and

(10)(C)(vi) minor's name: initials.

- (10)(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.
- (11) Tax-related records.
- (11)(A) Notwithstanding Rule 4-202.02, except as otherwise ordered by the court and except as provided in subsections (10)(B) and (10)(C), if a case involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, all records shall be classified as public records under Rule 4-202.02.
- (11)(B) Except as provided in subsection (10)(C), all records in a case that involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, shall be protected if the case also involves commercial information as that term is defined by Utah Code § 59-1-404.
- (11)(C) For a case described in subsection (10)(B):
- (11)(C)(i) if a request for a specific record, or access to all records in a case, is made to the court and notice is given to the taxpayer, such record or records shall be released within 14 days after notice is given to the taxpayer, except for specific records ordered by the court to be classified as sealed, private, protected, or safeguarded pursuant to a motion made under Rule 4-202.04(3);
- (11)(C)(ii) thirty days after the issuance of a non-appealable final order by the court, all records shall be public unless the court orders specific records to be classified as sealed, private, protected, or safeguarded pursuant to a motion made under Rule 4-202.04(3).
- (11)(C)(iii) The public shall have access to the case history, notwithstanding the limitations in this rule applicable to the underlying records.

Rule 4-403. Electronic signature and signature stamp use.**Intent:**

To establish a uniform procedure for the use of judges' and commissioners' electronic signatures and signature stamps.

Applicability:

This rule shall apply to all trial courts of record and not of record.

Statement of the Rule:

- (1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:
- (1)(A) bail bonds from approved bondsmen;
 - (1)(B) bench warrants;
 - (1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when stipulated by both parties in contested cases;
 - (1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);
 - (1)(E) orders to show cause;
 - (1)(F) orders to take into custody;
 - (1)(G) summons;
 - (1)(H) supplemental procedure orders;
 - (1)(I) orders setting dates for hearing and for notice;
 - (1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release information concerning a debtor, where neither DWS nor the debtor opposes the motion; **and**
 - (1)(K) orders for transportation of a person in custody to a court hearing, including writs of habeas corpus ad prosequendum and testificandum;
 - (1)(L) orders appointing a court visitor; and
 - (1)(M) domestic relations injunctions under URCP 109.
- (2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the document directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.

- (3) All other documents requiring the judge's or commissioner's signature shall be personally signed by the judge or commissioner, unless the judge or commissioner, on a document by document basis, authorizes the clerk to use the judge's or commissioner's electronic signature or signature stamp in lieu of the judge's or commissioner's signature. On such documents, the clerk shall indicate in writing that the electronic signature or signature stamp was used at the direction of the judge or commissioner and shall sign his or her name directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.

Effective May/November 1, 20____

Rule 4-405. Juror and Witness Fees and Expenses.**Intent:**

To develop a uniform procedure for payment of juror and witness expenses.

Applicability:

This rule shall apply to all trial courts of record.

Statement of the Rule:**(1) Fees.**

(1)(A) The courts shall pay the fee established by statute for all jurors of the courts of record. The courts shall pay the fee established by statute for witnesses subpoenaed by the prosecutor or by an indigent defendant in criminal cases in the courts of record and in actions in the juvenile court. The courts shall pay no fee to a witness appearing for a hearing that was canceled or postponed with at least 24 hours' notice to the parties, excluding Saturdays, Sundays, and holidays. The parties shall notify witnesses when a hearing is canceled or postponed. Upon request, a civil witness's necessary and reasonable parking expenses shall be reimbursed by the attorney who issued the subpoena.

(1)(B) A subsequent day of attendance shall be:

(1)(B)(i) for a witness, attendance on a subsequent day of the hearing regardless of whether the hearing is continued to a contiguous business day, but only if the hearing was actually called on the first day; and

(1)(B)(ii) for a juror, attendance on a subsequent day during the juror's term of availability, as defined in Rule 4-404(2)(B), regardless of whether attendance is for the same trial.

(1)(C) A witness requesting payment shall present a subpoena on which appears the certification of the attorney general, county attorney, district attorney or legal defender of the number of days the witness attended court, as defined in subsection (1)(B).

(2) **Mileage.** The courts shall reimburse the cost of travel at the rate established by statute for those jurors and witnesses to whom the court pays a fee. A witness in a criminal case or juvenile court case traveling from out of state to whom the court pays a witness fee shall

be reimbursed the cost of round trip airfare or round trip travel at \$.20 per mile, as determined by the court.

(3) **Meals and refreshments.**

(3)(A) Meals for jurors shall be provided if the case has been submitted to the jury and the jury is in the process of deliberating the verdict or if the jury is sequestered. A lunch meal may be provided to jurors impaneled to try a case if it is anticipated that the matter will not be concluded by 2:00 p.m. on the final day of trial and the trial judge finds that provision of a lunch meal will assist in expediting the conclusion of the trial.

(3)(B) A witness in a criminal case or a juvenile court case traveling from outside the county to whom the court pays a witness fee may be reimbursed for meals.

(3)(C) Payment for meals for jurors and eligible in-state witnesses shall not exceed the rates adopted by the Department of Administrative Services.

(3)(D) Refreshments may be provided to a jury during the course of trial, upon order of the judge. Payment for refreshments shall not exceed the State Department of Finance per diem rate~~\$4.00~~ per person per day.

(4) **Lodging.** Lodging for jurors shall be paid if the judge orders the jury sequestered, if the juror must travel more than 100 miles one-way from the juror's residence to the courthouse and the judge orders that lodging be paid, or if the judge orders that lodging be paid due to inclement weather. A witness in a criminal case or juvenile court case to whom the court pays a witness fee traveling from outside the county shall be provided lodging only upon a determination by the court executive that returning to the point of origin on the date in question places a hardship upon the witness or that the reimbursement for travel for repeat appearances is greater than the cost of lodging. Unless unavailable, lodging costs shall not exceed the rates adopted by the Department of Administrative Services.

(5) **Method and record of payment.**

(5)(A) The payment of juror and witness fees and mileage shall be by check made payable to the individual, or the court may reimburse the county or municipal government for the payment of the fee or mileage allowance.

(5)(B) The court shall pay eligible expenses of jurors directly to the vendor. Jurors shall not be required to incur the expense and seek reimbursement. The court may pay the eligible expenses of witnesses directly to the vendor or may reimburse the witness or the county or municipal government for the expense.

(5)(C) **Jurors.** Jurors must present a summons for payment for the first day of service. If a juror does not present a summons, the clerk may certify that the juror was summoned. The clerk shall file the summons and shall record the attendance of jurors for payment, including subsequent days of service.

(5)(D) **Witnesses in criminal cases and juvenile court cases.** Witnesses in criminal cases and juvenile court cases must present a subpoena for payment. If the subpoena is issued on behalf of an indigent defendant, it shall bear the certificate of defense counsel that the witness has appeared on behalf of the defendant at state expense, regardless of the number of days for which the witness is eligible for payment. If the subpoena is issued on behalf of the prosecution, the prosecutor shall certify the number of days and the number of miles for which the witness is eligible for payment. The clerk shall file the subpoena and record of attendance. If a witness does not present a subpoena, the clerk may record the witness' attendance and mailing address that is certified by the prosecutor or defense counsel.

(5)(E) The clerk of the court, or designee, shall enter the payment due the ~~juror or~~ witness in the State Accounting System (FINET) within 10 business calendar days after receipt of certification. ~~The state will mail the payment to the juror or witness within 3 days. The clerk of court shall maintain both a list of undeliverable juror and witness checks and the checks. A payment is considered abandoned one year after it became payable and will be sent to the Division of Unclaimed Property pursuant to the Utah Code.~~

(5)(F) The clerk of the court, or designee, shall enter the payment due the juror into the Jury Management System within 10 business days from the last court date served.

(5)(G) The clerk of court shall maintain both a list of undeliverable juror and witness checks and the checks. State Finance reports all stale dated checks to the Unclaimed Property Division and the court destroys the checks. A payment is considered abandoned one year after it became payable and will be sent to the Division of Unclaimed Property pursuant to the Utah Code.

(6) **Audit of records.** ~~At least once per month, the clerk of the court or a designee shall compare the jurors summoned and the witnesses subpoenaed with the FINET log of payments. Any unauthorized payment or other irregularity shall be reported to the court executive and the audit department of the Administrative Office of the Courts. The~~

100 Administrative Office of the Courts audit program shall include ~~the~~an audit of juror and
101 witness payments within the scope of their regularly scheduled audits.

102 *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 Judicial Council’s Standing Committee on Court Forms. If requested by the court, ~~The 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.

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

72 *Effective May/November 1, 20__*