

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

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114

December 2, 2019 – 2:00 p.m. to 4:00 p.m.

Conference Line: 877-820-7831, Code: 897882#

2:00	Welcome and Approval of Minutes	Action	Tab 1	Judge Pullan
2:05	Evidence Audit Update	Discussion		Chris Palmer
2:15	1-205. Standing and Ad Hoc Committees <ul style="list-style-type: none"> <i>Remove the juvenile court judge from the fine and bail committee.</i> 	Action	Tab 2	Judge Evershed
2:25	4-403. Electronic Signature and Signature Stamp Use <ul style="list-style-type: none"> <i>Authorizes automatic electronic signatures on domestic relations injunctions</i> <i>Proposed standing order</i> <i>URCRP 109</i> 	Action	Tab 3	Brent Johnson
2:45	4-503. Mandatory Electronic Filing <ul style="list-style-type: none"> <i>Requires LPPs to file documents electronically</i> 	Action	Tab 4	Brent Johnson
2:55	HR 550 – Discrimination and Harassment	Action	Tab 5	Keisa Williams
3:15	4-411. Courthouse Attire (NEW) <ul style="list-style-type: none"> <i>Board feedback</i> 	Action	Tab 6	All Members
3:35	June Retreat Assignment Rules	Action	Tab 7	Judge Pullan
3:50	Old Business / New Business <ul style="list-style-type: none"> <i>Meeting Dates: January, July, August</i> 	Action		Judge Pullan
4:00	Adjourn			

2020 Meetings:

January 3, 2020

February 7, 2020

March 6, 2020

May 1, 2020 (9:00 a.m. to 5:00 p.m.)

June 5, 2020

July 3, 2020

August 7, 2020

September 4, 2020

October 2, 2020

November 6, 2020 (9:00 a.m. to 5:00 p.m.)

December 4, 2020

TAB 1

Minutes - November 1, 2019

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

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
November 1, 2019 – 12:00 p.m. to 2:00 p.m.

DRAFT

MEMBERS:

PRESENT

EXCUSED

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

GUESTS:

Shelley Waite
Brent Johnson

STAFF:

Keisa Williams
Minhvan Brimhall (recording secretary)

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed the committee to the meeting. The committee considered the minutes from the October 4, 2019 meeting. With no changes, Rob Rice moved to approve the draft minutes. Judge Chin seconded the motion. The committee voted and the motion was unanimously passed.

(2) CJA APPENDIX F. UTAH STATE COURT RECORDS:

Mr. Johnson reviewed two proposed amendments. The Legislature changed the statute last year making domestic violence misdemeanor offenses enhanceable for 10 years. The first amendment moves the language regarding DV misdemeanor offenses from the 5 year section to the 10 year section. The second amendment eliminates the reference to Rule 9-301 under (B)(5)(a) because that rule has been repealed and records can now be destroyed at the same time as the case file.

With no further discussion, Mr. Rice moved to approve the rule as amended. Judge Cannell seconded the motion. The committee voted and the motion unanimously passed. The approved amendments will go to the Judicial Council for approval for public comment.

(3) RULES BACK FROM PUBLIC COMMENT:

CJA 4-410. (New) Courthouse Closure.

This is a new rule. The purpose is to establish protocols for presiding judges, court staff, and other affected stakeholders in the event a courthouse needs to be closed or its opening delayed. It is back from public comment. No comments were received.

Shelly Waite, Trial Court Executive for the 4th District Juvenile Court, reported questions from the TCEs regarding the practical application of some of the requirements under the rule. Starting at line 25, the rule discusses an "order." There is some confusion among presiding judges and TCEs about what elements

should be included in the order. Ms. Waite asked whether there was a template order that jurisdictions could use to ensure they are in compliance with the rule. Similar practical questions included: where does the order go, how is the order used, what is the difference between an order and a notice, what is the timing for issuing notices and orders? Ms. Waite didn't have any recommendations regarding language changes in the rule itself, but thought an outline of the timeline and procedural requirements, and a template order would be most helpful.

Ms. Williams offered some suggestions based on her understanding of the rule, including the difference between a notice and an order, the timing and elements for each, and the communication requirements and timing. Depending on the situation and jurisdiction, it may be difficult to post a notice on the courthouse door during inclement weather. Ms. Williams stated that those procedures probably shouldn't be outlined in the rule because every jurisdiction and circumstance may require a different approach. Mr. Rice asked whether there are other circumstances in which presiding judges issue administrative orders. Judge Pullan stated that there have been administrative orders signed by the Chief Justice posted in the building.

Ms. Williams provided a bulleted outline of the procedures under the rule. The Committee discussed whether the order should be retained and by whom. Judge Pullan stated that keeping the order may be important if, for example, a party missed a filing deadline and the statute of limitations had run. He suggested that orders be kept centrally by the AOC because there are no case numbers associated with them. Judge Cannell stated that his jurisdiction keeps a binder of standing orders. Ms. Waite stated that they have shared files where those items are stored. The Committee determined that orders should be sent to the State Court Administrator's Office and be retained by the TCEs or presiding judges.

Judge Pullan suggested that a form order with check boxes be created for use as a starting point for judges, especially given that these situations don't arise often. Ms. Williams will create a draft template order, with a procedural checklist as the first page, and include it on the next agenda. Judge Pullan stated that presiding judges need to make these decisions in consultation with the TCEs and that requirement should be included in the procedural outline. The outline should also include the procedure for retention of the order. Judge Pullan suggested that a new provision, subsection 9, be added to the rule to include the retention requirement.

Mr. Rice asked whether the court could send electronic closure notices via the e-filing system. Ms. Williams noted that if it's possible, it's unlikely that the system could send notices only to specific jurisdictions. If notices can be sent, they would likely have to be sent to everyone. The Committee felt a message to everyone would be okay as long as the affected court was named because many attorneys travel to different courts. Ms. Williams stated that there may be multiple messages in one day at different times based on when a jurisdiction makes a decision to close. Judge Chin stated that the multiple notices would be anticipated as weather travels across the State. The messages should also be included in the MyCase system. An electronic notice requirement could be added as (5)(C). The Committee discussed whether notices could be sent by the State Bar. Mr. Rice stated that his concern with a Bar email is that it would introduce a middle person. The emails notifying attorneys that the e-filing system is down comes from the court.

The committee recommended that this item be tabled to allow Ms. Williams time to speak with the IT department to determine capability, costs, and time frame of electronic closure notices. Ms. Williams will seek feedback from the TCEs on the draft order template and invite Ms. Waite back to the next meeting when Rule 4-410 will be discussed. No motion was made for this item.

(4) 1-204. EXECUTIVE COMMITTEES:

In June of this year, the Judicial Council created an “Interim Ad Hoc Budget Committee.” CJA 1-204 outlines the three current executive committees. CJA 1-205 outlines the Council’s authority to create ad hoc committees. CJA 3-406 addresses the court’s Budget and Fiscal Management policy and responsibilities. Judge Pullan stated that the Judicial Council voted to make the Budget and Finance Committee a permanent executive committee, requiring amendments to CJA 1-204 and CJA 3-406.

The committee recommended changing the name of the Budget Committee to “Budget and Fiscal Management Committee” in both rules 1-204 and 3-406 to be consistent with the language in 3-406. Judge Pullan recommended that the role of the Budget and Fiscal Management Committee should be to make recommendations to the Council regarding budget management and budget development in accordance with 3-406. Mr. Rice stated that the need for the committee was born out of a desire to be more anticipatory about budget issues, especially those that might arise during the fiscal year so that the Council can be less reactive. The Committee agreed to reference 3-406 in 1-204.

Ms. Williams stated that Judge Noonan expressed a need for changes to the responsibility of the state court administrator outlined in 3-406 based on the Council’s discussions. Judge Pullan noted that any Council decision regarding the budget would be informed by the Budget and Fiscal Management Committee’s work, so it may not be necessary to change the Council’s responsibilities or add a section for the Budget Committee in 3-406.

Under (2)(B), the state court administrator can order reductions or reallocation of funds upon notice to the Council. The committee removed that authority because the SCA will now be making recommendations to the Budget Committee. The Budget Committee will make recommendations to the Council about priorities, initial allocations, and reductions or reallocations. The SCA will implement the Council’s decisions.

Judge Walton moved to approve the suggested amendments to both rules. Judge Cannell seconded the motion. The motion was unanimously approved. The amendments will go to the Judicial Council for approval to be sent out for public comment.

(5) 4-905. RESTRAINT OF MINORS IN JUVENILE COURT:

The proposed change is minor. It came out of Judge Evershed’s annual review. The amendment was on hold because Nancy Sylvester was proposing unrelated changes to 4-905 and the Committee intended to make both changes at once. However, Nancy’s project has since been placed on a permanent hold so Ms. Williams recommended moving forward with the change. The proposed amendment is to remove subsection 36 from the reference to 78A-6-105 because the statutory subsections continue to change.

With no additional changes or further discussion, Mr. Rice moved to accept amendments to rule 4-905 as presented. Judge Chin seconded the motion. The motion unanimously passed. The rule will go to the Judicial Council for approval for public comment.

(6) 3-201. COURT COMMISSIONERS and 3-201.02. COURT COMMISSIONERS CONDUCT COMMITTEE:

Policy and Planning reviewed revised drafts of rules 3-201 and 3-201.02 in March and May 2019. At its May 3rd meeting, the Committee asked Mike Drechsel to prepare edits in light of the committee’s discussion. The recommendations from that meeting were to change “sanction” to “corrective action,” make it clear that both the Council and the presiding judge can take corrective actions as the result of a complaint or poor performance, include removal as a possible corrective action, and to remove language regarding records access.

Judge Pullan made two suggestions: In 3-201.02(3)(A), remove the requirement that Commissioners pay a fee to obtain a copy of the record of a court commissioner conduct committee hearing. In 3-201.02(4), the 30 day time requirement for filing objections to committee findings should be moved under subsection (3) because that section discusses the conduct committee hearing process. Objections should be filed with the conduct committee, not the Council, because the conduct committee will be in the best position to determine how objections should be resolved. The Council will receive the complete file, including the objections and how they were resolved, from the conduct committee. After discussion, the Committee agreed with both suggestions.

Mr. Rice stated that the rule seems to lack an appeal process. He asked what happens after a finding in a complaint against a judge before the judicial conduct commission. Judge Pullan stated that these rules should be modeled as closely as possible with the judicial conduct commission process. Mr. Rice suggested that Ms. Williams review the Code of Judicial Conduct to see whether these rules are mirroring the judicial conduct commission procedures and bring the rules back to the Committee with proposed changes.

No motion was made to this item at this time.

(7) 3-111. PERFORMANCE EVALUATION OF ACTIVE SENIOR JUDGES AND COURT COMMISSIONERS:

The request for this change came from the Forms Committee. As part of the Forms Committee's review of forms for reporting cases under advisement, they noticed different standards in the rules for active judges versus senior judges and commissioners. The proposed amendment is a technical change from "60 days" to "two months" to be consistent with the statute and other rules. The change would allow all judicial officers to use the same form.

With no further discussion, Mr. Rice moved to approve the rule as amended. Judge Chin seconded the motion. The motion unanimously passed. The rule will go to the Judicial Council for approval for public comment.

(8) ANNUAL REVIEW PROJECT:

Ms. Williams reviewed the list of rules up for review in 2020. Judge Walton and Judge Evershed are set to review the rules listed. They will present any proposed amendments to the Committee at the September 4, 2020 meeting to allow for final adoption by November 1, 2020.

(9) OLD BUSINESS/NEW BUSINESS:

The Board of District Court Judges would like to be informed and included in meetings where Policy and Planning will be discussing rules which may affect district court judges. When adding items to the agenda, Ms. Williams will consider who may be affected and then extend a broad invitation to all stakeholders that might be impacted. The goal is to increase transparency and communication.

Judge Cannell suggested that the Council or Committee member scheduled to report to the Board of District Court Judges should provide a synopsis about items which came directly from the Board. If the reporting member isn't on the Policy and Planning Committee, a P&P member should prepare the reporting Council member with a status update. It might also be beneficial to reach out to the Chair beforehand and ask what they want to hear about. The reporting member would then report back to the Policy and Planning Committee about the Board's feedback. The Committee agreed. Judge Walton reported to the BDCJ in Price. He suggested that the reporting member stay for the entire Board meeting

to ensure the Board understands that the Committee and Council are invested and want to be a part of the dialogue and solution. Judge Pullan asked Ms. Williams to confirm that he is scheduled to report to the Board in November.

The Committee will be working on rule amendments consistent with the Council's decision to amend the composition of the Council. A statutory amendment is required so there isn't a rush, but the Committee should get a rule amendment drafted. Judge Cannell noted that the rule amendment will need to be tied with the annual meeting. Judge Pullan stated that amending the rule doesn't make sense until the statutory amendment is in place, but a rule amendment can be drafted with an effective date after the annual meeting.

The Courtroom Attire rule will be presented to all Boards of Judges and the Supreme Court for feedback.

(10) ADJOURN:

With no further items for discussion, Judge Chin moved to adjourn. The meeting adjourned at 10:20 am. The next meeting will be held on December 6, 2019 at 12 pm (noon).

TAB 2

CJA 1-205. Standing and Ad Hoc Committees

NOTES: The Board of Juvenile Court Judges would like to explore the possibility of removing the juvenile court judge member from the Uniform Fine Schedule Committee.

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

2 **Intent:**

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

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

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

8 **Applicability:**

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

10 **Statement of the Rule:**

11 (1) **Standing Committees.**

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

14 (1)(A)(i) Technology Committee;

15 (1)(A)(ii) Uniform Fine Schedule Committee;

16 (1)(A)(iii) Ethics Advisory Committee;

17 (1)(A)(iv) Judicial Branch Education Committee;

18 (1)(A)(v) Court Facility Planning Committee;

19 (1)(A)(vi) Committee on Children and Family Law;

20 (1)(A)(vii) Committee on Judicial Outreach;

21 (1)(A)(viii) Committee on Resources for Self-represented Parties;

22 (1)(A)(ix) Language Access Committee;

23 (1)(A)(x) Guardian ad Litem Oversight Committee;

24 (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;

25 (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;

26 (1)(A)(xiii) Committee on Pretrial Release and Supervision; and

27 (1)(A)(xiv) Committee on Court Forms.

28 (1)(B) **Composition.**

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

30 (1)(B)(i)(a) one judge from each court of record;

31 (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)~~ (1)(B)(ii)(c) 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

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

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

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~~(1)(B)(viii)(i)~~ ~~(1)(B)(viii)(j)~~ two law school representatives;
~~(1)(B)(viii)(j)~~ ~~(1)(B)(viii)(k)~~ the state law librarian; and
~~(1)(B)(viii)(k)~~ ~~(1)(B)(viii)(l)~~ two community representatives.

(1)(B)(ix) The Language Access Committee shall consist of:

- (1)(B)(ix)(a) one district court judge;
- (1)(B)(ix)(b) one juvenile court judge;
- (1)(B)(ix)(c) one justice court judge;
- (1)(B)(ix)(d) one trial court executive;
- (1)(B)(ix)(e) one court clerk;
- (1)(B)(ix)(f) one interpreter coordinator;
- (1)(B)(ix)(g) one probation officer;
- (1)(B)(ix)(h) one prosecuting attorney;
- (1)(B)(ix)(i) one defense attorney;
- (1)(B)(ix)(j) two certified interpreters;
- (1)(B)(ix)(k) one approved interpreter;
- (1)(B)(ix)(l) one expert in the field of linguistics; and
- (1)(B)(ix)(m) one American Sign Language representative.

(1)(B)(x) The Guardian ad Litem Oversight Committee shall consist of:

- (1)(B)(x)(a) seven members with experience in the administration of law and public services selected from public, private and non-profit organizations.

(1)(B)(xi) The Committee on Model Utah Civil Jury Instructions shall consist of:

- (1)(B)(xi)(a) two district court judges;
- (1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;
- (1)(B)(xi)(c) four lawyers who primarily represent defendants; and
- (1)(B)(xi)(d) one person skilled in linguistics or communication.

(1)(B)(xii) The Committee on Model Utah Criminal Jury Instructions shall consist of:

- (1)(B)(xii)(a) two district court judges;
- (1)(B)(xii)(b) one justice court judge;
- (1)(B)(xii)(c) four prosecutors;
- (1)(B)(xii)(d) four defense counsel;
- (1)(B)(xii)(e) one professor of criminal law; and
- (1)(B)(xii)(f) one person skilled in linguistics or communication.

(1)(B)(xiii) The Committee on Pretrial Release and Supervision shall consist of:

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

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~~(1)(B)(xiv)(n)~~~~(1)(B)(xiv)(m)~~ one person skilled in linguistics or
communication; and

~~(1)(B)(xiv)(e)~~~~(1)(B)(xiv)(n)~~ 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.
- (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's committees.

TAB 3

CJA 4-403. Electronic Signature and Signature Stamp Use.

NOTES: The proposed amendment to Rule 4-403 addresses a dilemma created by the implementation of Rule 109 of the Rules of Civil Procedure. Rule 109 will be effective January 1, 2020. The rule provides for a standard injunction to be issued by the court immediately upon the filing of a case. The Judicial Council has approved the injunction form.

Rule 4-403 was recently amended to include domestic relations injunctions as one of the types of documents on which a clerk could use a judge's signature stamp with approval from the judge. This is not controversial because all injunctions will be the same and there is no need for judicial review. However, judges and clerks have expressed concerns about workload implications for court personnel. The Board of District Court Judges recommended that presiding judges have the option of issuing standing orders which authorize the IT Department to act as a clerk and automatically affix a judge's signature. A draft order tentatively approved by the Board is included.

Mr. Johnson has expressed a concern that the order pushes beyond the bounds of Rule 4-403 and encroaches on an area in which the Judicial Council has already made a decision. Mr. Johnson's proposed solution is to amend the rule and have the Judicial Council specifically allow the practice contemplated by the order, without using a work-around. This is a new concept and perhaps opens the door for other documents to be signed in similar ways, but that might not be a bad idea. The signature stamp rule was originally written in the age of paper. The digital age allows a digital signature to be automatically affixed through programming. The alternative is to have a clerk make the keystroke necessary to affix the signature, but the end result is the same--a document issued with a judge's signature without review by the judge. The safety net for this process is that a judge's signature can be applied only if the form is approved by the Council.

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;

(1)(K) orders for transportation of a person in custody to a court hearing, including writs of habeas corpus ad prosequendum and testificandum; and

(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) In a case where a domestic relations injunction must be issued under URCP 109, the electronic signature of the judge assigned to the case may be automatically attached to the domestic relations injunction form approved by the Judicial Council, without the need for

specific direction from the assigned judge and without the need for a clerk's signature
accompanying the judge's signature.

(3 4) 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 1, 2019

IN THE _____ JUDICIAL DISTRICT

IN AND FOR _____ COUNTY, STATE OF UTAH

IN RE INJUNCTIONS ENTERED
PURSUANT TO RULE 109 OF THE UTAH
RULES OF CIVIL PROCEDURE

STANDING ORDER

Presiding Judge _____

It is hereby ordered that, pursuant to Rule 4-403 of the Utah Code of Judicial Administration, the Information Technology Department of the Administrative Office of the Courts is authorized as a designee of the _____ Judicial District Clerk of Court to affix each judge's signature to all injunctions entered pursuant to Rule 109 of the Utah Rules of Civil Procedure.

Date

Judge _____

Presiding Judge for the _____ Judicial District

1 **Rule 109. Injunction in certain domestic relations cases.**

2 (a) **Actions in which a domestic injunction enters.** Unless the court orders otherwise, in an action
3 for divorce, annulment, temporary separation, custody, parent time, support, or paternity, the court will
4 enter an injunction when the initial petition is filed. Only the injunction's applicable provisions will govern
5 the parties to the action.

6 (b) **General provisions.**

7 (b)(1) If the action concerns the division of property then neither party may transfer, encumber,
8 conceal, or dispose of any property of either party without the written consent of the other party or an
9 order of the court, except in the usual course of business or to provide for the necessities of life.

10 (b)(2) Neither party may, through electronic or other means, disturb the peace of, harass, or
11 intimidate the other party.

12 (b)(3) Neither party may commit domestic violence or abuse against the other party or a child.

13 (b)(4) Neither party may use the other party's name, likeness, image, or identification to obtain
14 credit, open an account for service, or obtain a service.

15 (b)(5) Neither party may cancel or interfere with telephone, utility, or other services used by the
16 other party.

17 (b)(6) Neither party may cancel, modify, terminate, change the beneficiary, or allow to lapse for
18 voluntary nonpayment of premiums, any policy of health insurance, homeowner's or renter's
19 insurance, automobile insurance, or life insurance without the written consent of the other party or
20 pursuant to further order of the court.

21 (c) **Provisions regarding a minor child.** The following provisions apply when a minor child is a
22 subject of the petition.

23 (c)(1) Neither party may engage in non-routine travel with the child without the written consent of
24 the other party or an order of the court unless the following information has been provided to the other
25 party:

26 (c)(1)(A) an itinerary of travel dates and destinations;

27 (c)(1)(B) how to contact the child or traveling party; and

28 (c)(1)(C) the name and telephone number of an available third person who will know the
29 child's location.

30 (c)(2) Neither party may do the following in the presence or hearing of the child:

31 (c)(2)(A) demean or disparage the other party;

32 (c)(2)(B) attempt to influence a child's preference regarding custody or parent time; or

33 (c)(2)(C) say or do anything that would tend to diminish the love and affection of the child for
34 the other party, or involve the child in the issues of the petition.

35 (c)(3) Neither party may make parent time arrangements through the child.

36 (c)(4) When the child is under the party's care, the party has a duty to use best efforts to prevent
37 third parties from doing what the parties are prohibited from doing under this order or the party must
38 remove the child from those third parties.

39 (d) **When the injunction is binding.** The injunction is binding

40 (d)(1) on the petitioner upon filing the initial petition; and

41 (d)(2) on the respondent after filing of the initial petition and upon receipt of a copy of the
42 injunction as entered by the court.

43 (e) **When the injunction terminates.** The injunction remains in effect until the final decree is entered,
44 the petition is dismissed, the parties otherwise agree in a writing signed by all parties, or further order of
45 the court.

46 (f) **Modifying or dissolving the injunction.** A party may move to modify or dissolve the injunction.

47 (f)(1) Prior to a responsive pleading being filed, the court shall determine a motion to modify or
48 dissolve the injunction as expeditiously as possible. The moving party must serve the nonmoving
49 party at least 48 hours before a hearing.

50 (f)(2) After a responsive pleading is filed, a motion to modify or to dissolve the injunction is
51 governed by Rule 7 or Rule 101, as applicable.

52 (g) **Separate conflicting order.** Any separate order governing the parties or their minor children will
53 control over conflicting provisions of this injunction.

54 (h) **Applicability.** This rule applies to all parties other than the Office of Recovery Services.

TAB 4

CJA 4-503. Mandatory Electronic Filing.

NOTES: The proposed amendments to Rule 4-503 will assist the Court Services Department in requiring LPPs to electronically file their documents. The first group of LPPs is now licensed and issues about electronic filing have arisen.

Rule 4-503. Mandatory electronic filing.

Intent:

To require that documents in district court civil cases be filed electronically.

To provide for exceptions.

Applicability:

This rule applies in the district court.

Statement of the Rule:

(1) Except as provided in Paragraph (2), pleadings and other papers filed in civil cases in the district court on or after April 1, 2013 ~~shall~~ must be electronically filed using the electronic filer's interface.

(2)(A) A self-represented party who is not a lawyer or licensed paralegal practitioner may file pleadings and other papers using any means of delivery permitted by the court.

(2)(B) A lawyer or licensed paralegal practitioner whose request for a hardship exemption from this rule has been approved by the Judicial Council may file pleadings and other papers using any means of delivery permitted by the court. To request an exemption, the lawyer or licensed paralegal practitioner ~~shall~~ must submit a written request to the District Court Administrator outlining why the exemption is necessary ~~to the District Court Administrator~~.

(2)(C) Pleadings and other papers in probate cases may be filed using any means of delivery permitted by the court until July 1, 2013, at which time they ~~shall~~ must be electronically filed using the electronic filer's interface.

(3) The electronic filer ~~shall~~ must be an attorney or licensed paralegal practitioner of record and ~~shall~~ must use a unique and personal identifier that is provided by the filer's service provider.

Effective date: May 1, 2016

TAB 5

HR 550 - Harassment Policy

NOTES:

At its November 25, 2019 meeting, the Judicial Council recommended additional edits to HR 550, specifically a provision safeguarding sensitive case-related materials necessary to perform work-related functions that might otherwise be considered offensive. I created a separate provision (lines 61-67) as a starting point for discussion.

Human Resources Policy 550 – Discrimination and Harassment

1. The judicial branch is committed to providing a work environment free from all forms of discrimination and harassment based on the following: sex, gender, age, ancestry, national origin, race, color, religious creed, mental or physical disability or medical condition, sexual orientation, gender identity or expression, marital status, military or veteran status, genetic information, or any other category protected by federal, state or applicable local law. This policy applies to every employee of the judicial branch, regardless of their position, including Administrative Office of the Courts management, as well as commissioners, judges and justices. This policy also applies to contractors, vendors, and other third parties who affect the workplace environment. In addition to the protections provided by this policy, commissioners, judges and justices are prohibited under the Utah Code of Judicial Conduct from manifesting bias or prejudice or engaging in harassment.
2. **Sexual harassment.**
 - 2.1 The judicial branch strictly prohibits and will not tolerate sexual harassment of any kind by any individual, employee, commissioner, judge or justice. Sexual harassment may include: any conduct of a sexual nature that is unwelcome and makes a person feel that the work environment is intimidating, offensive or hostile; any conduct of a sexual nature between people of the opposite sex or the same sex; and non-sexual comments, threats or actions that display hostility toward a person in the workplace because of gender.
 - 2.2 All types of unlawful offensive, hostile and intimidating behavior are prohibited by this policy. The following list is not intended to be all-inclusive, but illustrates kinds of behavior that may be considered forms of sexual harassment, and are strictly prohibited:
 - 2.2.1 Offering a job benefit in return for sexual favors.
 - 2.2.2 Taking or threatening to take an adverse action against an individual who refuses sexual advances.
 - 2.2.3 Other advances or requests of a sexual nature.
 - 2.2.4 Sexual flirtations.
 - 2.2.5 Unwelcome or inappropriate statements about an individual's body or sexuality.
 - 2.2.6 Sexually degrading words to describe a person.

- 2.2.7 Gestures of an obscene or sexually suggestive nature.
- 2.2.8 Humor or jokes of a sexual nature.
- 2.2.9 Posters, pictures, cartoons, toys or objects of a sexual nature.
- 2.2.10 Leering or staring that is offensive.
- 2.2.11 Any unwelcome touching or other physical contact with an individual.
- 2.2.12 Hostile comments toward employees in the workplace because of gender.
- 2.2.13 Sexting, texting, messaging, emailing, or any other form of communication of a sexually suggestive nature.

3. **Other types of harassment.**

- 3.1 Harassment based on an individual's race, color, religion, religious affiliation, age, national origin, ancestry, mental or physical disability or medical condition, sex, gender, sexual orientation, gender identity or expression, genetic information, marital status, military or veteran status or any other category protected by federal, state or local law is prohibited under this policy and will not be tolerated.
- 3.2 All types of unlawful offensive, hostile and intimidating behavior are prohibited by this policy. The following list is not intended to be all-inclusive, but illustrates kinds of behavior that may be considered forms of harassment, and are strictly prohibited.
 - 3.2.1 Telling racial, ethnic, disability, age-related or other types of degrading jokes.
 - 3.2.2 Making racial, ethnic, or religious slurs, and other forms of degrading name calling.
 - 3.2.3 Making threats or intimidation based on a category protected by the judiciary's policies.
 - 3.2.4 Possessing written or graphic material or communications in the workplace that is offensive based on a category identified in 3.1 or that violates universal standards of conduct.
 - 3.2.5 Texting, messaging, emailing, or any other form of communication that is offensive, hostile or intimidating.

4. **Work-Related Discussions or Materials**

- 4.1 The sensitive nature of the court's work may necessitate engaging in verbal or electronic communications, or possessing written or graphic material in the workplace that might be considered offensive.
- 4.2 Communications or written materials made or possessed in the ordinary course of business do not violate this rule, provided they are necessary to perform work-related functions and are not used or intended to harass, intimidate, or discriminate.

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68 | 4.5. Retaliation.

69 | 4.45.1 The judicial branch also prohibits retaliation against persons who make reports of
70 | discrimination or harassment or who provide assistance during an investigation.
71 | Retaliation will not be tolerated and will be considered a serious form of misconduct
72 | which can result in disciplinary action up to and including immediate termination of
73 | employment.

74 | 5.6. Reporting Procedures.

75 | 5.46.1 Any employee who believes they have been subject to, have witnessed, or are
76 | aware of discrimination or harassment by any employee, commissioner, judge or
77 | justice, individual or entity is strongly encouraged to report the incident. All
78 | employees can report discrimination, harassment, or retaliation verbally or in writing
79 | by any of the following methods:

80 | 5.4.46.1.1 By contacting directly any supervisor or member of management with
81 | whom the employee is comfortable reporting such matters.

82 | 5.4.26.1.2 By contacting any Human Resource representative using contact
83 | information at <https://www.utcourts.gov/intranet/hr/cus.htm>

84 | 5.4.36.1.3 By contacting directly, any member of AOC management, including any
85 | court-level administrator.

86 | 5.4.46.1.4 By contacting the State Court Administrator, Deputy State Court
87 | Administrator, or Assistant State Court Administrator.

88 | 5.4.56.1.5 By contacting any commissioner, judge or justice.

89 | 5.26.2 Commissioners, judges, justices, court executives and administrators,
90 | supervisors and managers must report any complaints or misconduct under this
91 | policy promptly to an appropriate authority, including a Human Resources
92 | representative at <https://www.utcourts.gov/intranet/hr/cus.htm> for further action.

93 | 5.36.3 Upon receipt, Human Resources must promptly respond to any complaint of
94 | discrimination, harassment, or retaliation.

95 | 6.7. Confidentiality.

96 | 6.47.1 Reports of policy violation will be addressed as confidentially as possible.
97 | Information will be disclosed only on a need-to-know basis for the purpose of
98 | responding to the report. At the conclusion of the response to the report, all relevant
99 | parties will be notified.

100 | 7.8. Corrective Action.

101 | ~~7.4~~8.1 Violation of this policy will be considered a serious form of misconduct which can
102 result in disciplinary action up to and including immediate termination of employment.

103 Effective May/November 1, 2019

TAB 6

CJA 4-411 (NEW) Courthouse Attire.

NOTES: At its October meeting, Policy and Planning voted to present Rule 4-411 to each of the Boards of Judges for feedback before submitting it to the Judicial Council for approval for public comment. Feedback has been obtained from:

- Board of District Court Judges
- Board of Justice Court Judges
- Board of Juvenile Court Judges
- Board of Appellate Court Judges
- Supreme Court

I made a few edits as a starting point based on the feedback I heard, but I was not able to attend the Board of District Court Judges' meeting so this draft does not include their recommendations.

1 **Rule 4-411. Courthouse attire.**

2 **Intent:**

3 To ensure that Utah's courts are open in accordance with Article 1, Section 11 of the Utah
4 Constitution while balancing the need for decorum in court proceedings and safety of all persons having
5 business in Utah's courthouses.

6 **Applicability:**

7 This rule applies to all Utah justice courts, district courts, juvenile courts, and appellate courts.

8 **Statement of the Rule:**

9 **(1) Open courts, personal attire, and judicial officer decision-making.**

10 (1)(a) Except as provided in paragraphs (2), (3), and (4), no person having business in any court
11 shall be denied access to a courtroom or courthouse based ~~solely~~ on the person's attire.

12 (1)(b) All courtroom access decisions regarding attire made in accordance with this rule shall be
13 determined by a judicial officer on a case-by-case basis. "Judicial officer" includes a judge or court
14 commissioner.

15 (1)(c) The role of a court bailiff, court security, or court staff in decisions made under this rule is
16 limited to consultation and enforcement.

17 **(2) Minimum personal attire standards.**

18 (2)(a) A person may ~~not~~ be denied access to a courthouse ~~if-unless~~ the person ~~is-not~~
19 ~~adequately's~~ attired ~~does not~~ cover ~~their~~ genitalia, buttocks, ~~or~~and breasts at or below the top of the
20 areola.

21 (2)(b) Breastfeeding is permitted ~~pursuant to Utah Code section 13-7a-101.~~

22 **(3) Courthouse security.**

23 (3)(a) Court security personnel may deny access to a courthouse, if a person's attire raises a
24 security concern or to enforce a judicial order.

25 **(4) Integrity of court proceedings and decorum.**

26 (4)(a) A person may be denied access to a courthouse or courtroom if, in the opinion of a judicial
27 officer, the person's attire would jeopardize the integrity of court proceedings by:

28 ~~(4)(a)(i) detracting from or disrupting the proceedings;~~

29 ~~(4)(a)(ii) introducing prejudice to any party to the proceedings; or~~

30 ~~(4)(a)(iii) introducing safety concerns generally.~~

31 ~~(4)(b) The judicial officer may enter a decorum order when the judicial officer is concerned that~~
32 ~~the integrity of the court proceedings may be jeopardized due to the above, or similar, circumstances.~~

33 **(5) Contrary statements.**

34 (5)(a) All statements contrary to this policy are hereby rescinded, including those expressed in
35 any courthouse, courtroom, website, or policy manual, and shall be removed.

TAB 7

June Retreat Assignment Rules

NOTES: Plan for a brief discussion about the nature of the rules and how to move forward, with a more substantive discussion at the January meeting.

Rule _____. Management Performance Review Committee

Intent:

The State Court Administrator serves at the pleasure of both the Supreme Court and the Judicial Council. The intent of this rule is to establish the Management Performance Review Committee and the process by which the Supreme Court and Judicial Council evaluate the performance of the State Court Administrator, receive and act upon complaints regarding the Administrator, and act to discipline and/or terminate the Administrator's employment. The rule also establishes the process by which the State Court Administrator evaluates the performance of high level managers in the Administrative Office of the Courts, receives and acts upon complaints regarding these managers, acts to discipline and/or terminate the employment of these managers, and communicates timely with the Management Performance Review Committee and Judicial Council regarding these activities.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) Definitions:

- a. "High-level manager" means any manager in the Administrative Office of the Courts with state-wide authority, including but not limited to the Deputy State Court Administrator, Assistant State Court Administrator, Appellate Court Administrator, District Court Administrator, Juvenile Court Administrator, Justice Court Administrator, ADR Director, Chief Information Officer, Communications Director, Court Security Director, Court Services Director, Education Director, Facilities Director, Finance Director, GAL Director, General Counsel, Human Resources Director, and Law Library Director.

(2) There is created a Management Performance Review Committee. The members of the Management Performance Review Committee are the Chief Justice, and two members of the Judicial Council's Management Committee designated by the Judicial Council. The Chief Justice shall be the chairperson.

(3) Authority of the Management Performance Review Committee.

- a. As to the State Court Administrator, the Management Performance Review Committee is authorized to:
 - i. Receive and review complaints;
 - ii. Review performance in accordance with the process and standards adopted by rule, which review shall occur at least annually;
 - iii. Recommend to the Supreme Court and Judicial Council performance plans and corrective action plans; and
 - iv. Recommend to the Supreme Court and Judicial Council that the State Court Administrator be disciplined or terminated.

- b. As to other high-level managers, the Management Performance Review Committee is authorized to receive reports from and consult with the State Court Administrator about, and report to the Judicial Council regarding:
 - i. Complaints;
 - ii. Performance reviews conducted in accordance with the process and standards adopted by rule;
 - iii. Performance plans and corrective action plans;;
 - iv. Discipline and termination.

(4) Performance Review and Reporting—State Court Administrator.

- a. The Management Performance Review Committee may conduct performance reviews of the State Court Administrator more often than annually.
- b. As soon as the Management Performance Review Committee determines that discipline or termination of the State Court Administrator is being considered, the Management Performance Review Committee shall report this to the Judicial Council in executive session and the grounds for discipline or termination.
- c. Upon receiving a recommendation from the Management Performance Review Committee that the State Court Administrator be disciplined or terminated, the Supreme Court and the Judicial Council shall meet in a joint executive session to consider and decide upon the recommendation.
- d. The Management Performance Review Committee shall report to the Judicial Council regarding the performance review for the State Court Administrator. The report shall be made after the completion of the annual performance review, or at more frequent intervals as required by the Judicial Council.

(5) Performance Review and Reporting—High Level Managers.

- a. The State Court Administrator shall conduct performance reviews for one half of the high level managers in each calendar year.
- b. The State Court Administrator shall report to the Management Performance Review Committee regarding the performance review of each high level manager. The report shall be made after the completion of each performance review, or at more frequent intervals as required by the Management Performance Review Committee.
- c. The Management Performance Review Committee and the State Court Administrator shall report to the Judicial Council annually regarding the performance of high level managers.
- d. As soon as the State Court Administrator or Management Performance Review Committee determines that discipline or termination of a high level manager is being considered, the State Court Administrator shall report this to the Judicial Council which shall meet in executive session to consider the recommendations of the Management Performance Review Committee and the State Court Administrator.

Rule _____. Administration of the Judiciary

Intent:

To set forth the authority of individual judges, courts, the Supreme Court, and the Judicial Council to fairly and effectively administer the functions of the judicial branch, and to provide a process by which the Supreme Court and the Judicial Council (1) determine when a matter is predominantly within the exclusive authority of the Supreme Court or the Judicial Council such that referral to and independent action of either body is required; and (2) determine when a matter significantly implicates the exclusive authority of both the Supreme Court and the Judicial Council such that a coordinated effort is required.

Applicability:

This Rule applies to the judicial branch.

Statement of the Rule:

1. Individual Judges, Courts and Court Levels.

- a. Individual judges are responsible for administering the cases assigned to them and to their courts for disposition consistent with Rule 3-103.
- b. Individual judges, courts, or court levels may adopt and apply policies, procedures, and practices applicable to them to ensure the fair, efficient, and timely administration of cases assigned to them, provided such policies, procedures, and practices conform to all applicable state and federal laws, to rules and orders promulgated by the Supreme Court, and to rules promulgated by the Judicial Council.

2. The Supreme Court.

- a. The Supreme Court has exclusive authority to adopt rules of procedure and evidence to be used in courts of the State, to manage the appellate process, to authorize retired justices, judges, and judges pro tempore to perform judicial duties, and to govern the practice of law in the State.
- b. To the extent matters arise or come before the Judicial Council that are within the exclusive authority of the Supreme Court, the Judicial Council shall refer all such matters to the Supreme Court by notice to the Chief Justice.

3. The Judicial Council.

- a. Except as provided in paragraphs (1) and (2), the Judicial Council has exclusive authority for the administration of the judiciary, including authority to establish and manage the budget, adopt administrative policies and rules, and oversee the Administrative Office of the Courts.
- b. The Chief Justice, as presiding officer of the Judicial Council and chief administrative officer of the judiciary, shall supervise the State Court Administrator and shall implement rules and policies adopted by the Judicial Council.
- c. To the extent matters arise or come before the Supreme Court that are within the exclusive authority of the Judicial Council, the Supreme Court shall refer all such matters to the Judicial Council by notice to the chairperson of the Management Committee.

4. Concurrent Authority of the Supreme Court and Judicial Council. The Supreme Court and the Judicial Council are each independently responsible for the removal of the State Court Administrator as provided in statute and Rule 3-301, but shall exercise that independent authority consistent with Rule ____.

4.

5. Coordination and Referral of Activities Implicating Exclusive Authority of the Supreme Court and Judicial Council.

- a. When the Supreme Court begins considering a matter which implicates both the Court's and the Council's exclusive authority, or when there is uncertainty about whether the Court or the Council has authority over such a matter, the Supreme Court or a designated member of the Supreme Court, shall promptly meet and confer with the Management Committee.
- b. When the Judicial Council begins considering a matter which implicates both the Council's and the Court's exclusive authority, or when there is uncertainty about whether the Council or the Court has authority over such a matter, the Management Committee shall promptly meet and confer with the Chief Justice.
- c. In the meeting required under subsections (5)(a) and (5)(b), the Supreme Court (acting through its designated member) and the Judicial Council (acting through its Management Committee) shall:
 - i. Decide whether the matter is predominantly within the exclusive authority of the Supreme Court or predominantly within the exclusive authority of the Judicial Council, and then refer the matter to the body with the predominating authority to act;
 - ii. Decide whether the matter substantially implicates both the exclusive authority of the Supreme Court and the exclusive authority of the Judicial Council, and then act in a coordinated effort to address the matter.
- d. If after a meeting required under subsections 5(a) and 5(b), no decision can be reached about predominant authority, substantial implication of authority, referral of the matter, or coordination of action, the Supreme Court and the Judicial Council shall meet in a joint session to make the decision.
- e. The designated member of the Supreme Court shall consult with and report to the Supreme Court regarding any meeting required under this rule.
- f. The Management Committee shall consult with and report to the Judicial Council regarding any meeting required under this rule.

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