

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

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

**Webex**

9:00	Welcome and Approval of Minutes	Action	Tab 1	Judge Pullan
9:05	Proposed amendments to senior judge rules <ul style="list-style-type: none"> <li>1-305. Board of Senior Court Judges</li> <li>3-104. Presiding Judges</li> <li>3-108. Judicial Assistance</li> <li>3-113. Senior Judges</li> <li>3-501. Insurance Benefits Upon Retirement</li> <li>11-201. Senior Judges</li> <li>11-203. Senior Justice Court Judges</li> </ul>	Action	Tab 2	Judge Atherton Cathy Dupont
10:05	4-403. Electronic and Signature Stamp Usage 3-104. Presiding Judges 3-108. Judicial Assistance	Action	Tab 3	Brent Johnson
10:20	Abusive Conduct Policy <ul style="list-style-type: none"> <li>2-211. Compliance with CJA and CJC</li> <li>CJC Chpt. 12. Terminology</li> <li>Canon 2.12. Supervisory Duties</li> <li>Canon 2.3. Bias, Prejudice, Harassment</li> <li>67-26-202. Abusive conduct complaint, investigation, administrative review process</li> </ul>	Action	Tab 4	Brent Johnson
10:50	Break			
11:00	<u>Rules back from Public Comment (eff. 8/21/20):</u> <ul style="list-style-type: none"> <li>CJA03-0413. Judicial Library Resources</li> </ul>	Action	Tab 5	Keisa Williams
11:05	CJA Appendix J. Ability-to-Pay Matrix	Action	Tab 6	Keisa Williams
11:20	Courthouse attire language in Jury Summons and CORIS/CARE notices	Action	Tab 7	Keisa Williams Paul Barron
11:45	Break			
12:00	3-101. Judicial Performance Standards <ul style="list-style-type: none"> <li><b>11:05-11:20:</b> Judge Christine Johnson, Judge Barry Lawrence</li> <li><b>11:20-11:35:</b> Justice Durham, Jennifer Yim, Bridget Romano</li> <li><b>11:35-12:00:</b> Committee discussion</li> </ul>	Action	Tab 8	Judge Pullan
1:10	HR Policies	Action	Tab 9	Bart Olsen
5:00	Adjourn			

**2020 Meetings:**

December 4, 2020

# TAB 1

Minutes

October 2, 2020

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

WebEx video conferencing  
October 2, 2020: 12 pm to 2 pm

**DRAFT**

**MEMBERS:**

**PRESENT**

**EXCUSED**

Judge Derek Pullan, <i>Chair</i>	•	
Judge Brian Cannell	•	
Judge Augustus Chin		•
Judge David Connors	•	
Judge Michelle Heward	•	
Mr. Rob Rice	•	

**GUESTS:**

Paul Barron  
Shane Bahr  
Justice Christine Durham  
Bridget Romano  
Nancy Sylvester  
Dr. Jennifer Yim

**STAFF:**

Keisa Williams  
Minhvan Brimhall (recording secretary)

**(1) WELCOME AND APPROVAL OF MINUTES:**

Judge Pullan welcomed members and guests to the meeting. The committee considered the minutes from the September 4, 2020 meeting. With no changes, Judge Heward moved to approve the minutes as drafted. Mr. Rice seconded the motion. Judge Connors abstained. The motion passed with a majority vote.

**(2) 3-101. Judicial Performance Standards:**

Judge Pullan provided an overview of the issue. Judge Johnson was unable to join the meeting due to an evidentiary hearing.

Ms. Romano: This is an important issue both to the Board of District Court Judges (BDCJ) and to JPEC. There have been concerns in the past that a judge may, unfairly, be found not to meet a performance measure based solely on the case under advisement standard for a situation outside of the judge's control. Until recently, JPEC believed that issue had been addressed by the AOC's implementation of a tracking system notifying judges of cases under advisement timelines. Initially, JPEC was concerned with amendments to both paragraphs (2) and (6), but after meeting with the BDCJ and learning how the tracking system works, JPEC understands that paragraph (2) more clearly defines when the clock starts ticking, which is perfectly appropriate

JPEC still has concerns with paragraph (6). JPEC has a statutory responsibility to the public to objectively evaluate judicial performance and provide recommendations with respect to retention. Paragraph (6) clearly intrudes upon and supplants what would otherwise be a JPEC function. During the meeting with the BDCJ, JPEC proposed alternatives (included in the meeting materials). We recommended eliminating the "good cause" language because it is terribly subjective and difficult to apply. Judge Stone suggested that was an artifact from an early draft. JPEC also suggested that if paragraph (6) were retained, it should include specific circumstances that would qualify as reasons outside a judge's personal control. Ms. Sylvester's alternative draft reflects a couple of them, such as temporary disability or system failure. That paragraph should also include language delineating the circumstances in which the Judicial Council would exercise its discretion to report to JPEC that a judge met an objective standard that he or she otherwise did not. Another suggestion was the possibility of reciprocity, for example, if a judge self-

declared that he or she met objective criteria, but the Judicial Council was made aware of information independently that the person in fact did not meet the criteria, the Judicial Council would be able to report that information to JPEC.

Those alternatives would help, but they do not eliminate JPEC's concerns, as reflected in the letter Dr. Yim sent in late August after the BDCJ meeting. The commission feels strongly that paragraph (6) supplants JPEC's function. Judges can provide an explanation to JPEC directly regarding why they should not be held responsible for a standard that they did not objectively meet, and JPEC can exercise its function to determine whether that judge or justice should ultimately be held accountable. One idea is to amend the self-declaration form to allow a judge to articulate reasons outside of his or her control. Before JPEC fails a judge on a performance standard, or if JPEC plans to recommend that the judge not be retained, we make sure that the judge has an opportunity to meet with and provide information to JPEC sufficient to allow us to make a fair and considered determination.

Justice Durham: I think it is accurate to say that from JPEC's perspective, the Judicial Council's function is to set the standards and JPEC's function (statutorily), is to evaluate compliance based on objective data. If the Judicial Council wants to include exceptions and mitigation into the rule, then I don't think JPEC would be as concerned, but as it is, the language in the rule leaves all of the discretion to the Council and does not allow JPEC to perform its function based on objective data. In my communication with Dr. Yim, it is my understanding that this has not been an issue for judges in terms of their recommendations for retention.

Judge Pullan: I'm troubled with the idea that the Judicial Council is in some way supplanting JPEC's role, because as Justice Durham mentioned, the Judicial Council does have a role here (independent of JPEC), which is to certify whether a judge has or has not met certain standards. As I understand it, nothing requires JPEC to accept the Judicial Council's findings. Under current paragraph (6), the Council would have to make findings that JPEC would be free to accept or reject. It's strange to me that JPEC is resistant to paragraph (6), because it is actually giving JPEC more information about the certification than they would have otherwise had.

In section 78A-2-223, a trial court judge shall decide all matters submitted for final determination within two months, unless circumstances causing the delay are beyond the judge's control. The legislature recognizes this exception, but nothing in our current rule incorporates that statutory standard. I don't view incorporating a statutory standard in the rule as supplanting JPEC's responsibility because nothing related to certification is binding on JPEC. JPEC can ultimately reach a different conclusion.

Justice Durham: It's not a question of whether the Judicial Council is supplanting JPEC. It's a question of whether the Judicial Council is performing its obligations with respect to setting the standards. Part of the problem is that the language of the rule does not fully define the standard. I think 78A-2-223 is unconstitutional. The legislature doesn't have the power to tell the judiciary what reasonable time standards are. That constitutional authority belongs with the Judicial Council. JPEC isn't worried about losing power as much as we are worried about ensuring the Council's role is clear, and that role is to set standards. With respect to the statute, the Judicial Council could incorporate the same statutory considerations into the rule, detail them, and ensure JPEC and judges know exactly what the criteria are for compliance with time standards.

Dr. Yim: I would encourage you to think for a moment as a member of the public, as someone who goes to JPEC's website and reads about judges who serve their community. I believe there is real value in having objective standards. Providing the Judicial Council with the discretion to overrule the self-declaration of a judge makes it appear that this process is something less than objective. I would encourage the Council to articulate the exceptions in the rule, so judges and the public know exactly what those standards are in advance. Those are better optics than allowing the Judicial Council to overrule and pass a judge who has failed the objective standards.

Judge Heward: Do judges make the determination themselves about when they self-disclose a situation beyond their control?

Ms. Romano: That was my suggestion with respect to potentially amending the self-declaration form, adding a section to provide objective information about a circumstance a judge feels was outside of his or her control, such as a temporary disability, pandemic, hurricane, earthquake, etc. The judge would be accurately reporting that he or she did not meet the definition of the standard, but with an explanation as to why they should not be held accountable. That would allow JPEC to overcome the presumption. The Judicial Council should set the standard, but the Council should not also be applying the standard and telling JPEC whether the standard has been met.

Judge Heward: If paragraph (6) were adopted, JPEC would be getting more information than they were before and nothing prevents JPEC from making its own determination. I don't think that infringes on JPEC's responsibility.

Justice Durham: You're right that JPEC would get more information under the alternative proposal, but think about the optics. For example, the Judicial Council reviews and publishes its findings with respect to a particular judge, saying 'no this judge didn't meet the standards but we're going to excuse it and deem him or her in compliance because of the following factors,' and then JPEC disagrees, saying 'we don't think those factors arise to a sufficient level to deem this judge in compliance.' As Jennifer points out, what does the public make of that? The legislature didn't want judges judging the performance of other judges, which is why they split the functions, with the Council setting standards and JPEC enforcing those standards, or at least deeming compliance with the standards. I agree that JPEC would be getting more information and that's a factor we should keep in the mix. The more information the better and JPEC wants it, but I don't think you really want to set things up in such a way that the Council could potentially be in conflict with JPEC on evaluations.

Ms. Sylvester: This highlights the balance of power between the executive and judicial branches. I see the optics from a positive angle. If the Council thinks a judge should be certified but JPEC disagrees, that would underscore how important JPEC really is.

Dr. Yim: From a historical perspective, when a judge fails the minimum standards of performance, JPEC has always received from the judiciary the same amount of information suggested here. The commission invites and/or meets with the judge and the AOC provides written documentation. It would be great if that requirement were written into the rule, but in my view this is not an increase in information.

Judge Connors: When each judge signs his or her own self-declaration, copies are sent to the presiding judge. What am I supposed to do with them? Am I supposed to decide if what the judge wrote is truly a violation? Am I supposed to make some comment to the Judicial Council as I pass them along, or am I simply supposed to sign them with a note saying I reviewed them and send them on? Example: a brand new judge self-declared that he was non-compliant when, in fact, he was in compliance and had just made a mistake. He checked the wrong box. He had inherited something from a prior judge and hadn't had 10 minutes to think about the matter, let alone 60 days, and yet he declared himself non-compliant. And what about 50/50 compliance situations (i.e., rule suspensions due to the pandemic)? I don't see anything in the rule addressing those sorts of situations.

Justice Durham: If it's a clerical error, take the form back to the judge, explain the process, and give him a new form to fill out. I was thinking of other rules, like the education rule, that are based on clear objectives. Did you show up? Did you get enough credit hours?

Judge Pullan: The purpose of Policy and Planning is to serve as a lightning rod to identify the policy interests of stakeholders and ultimately make a recommendation to the Council. The discussion today has been fruitful and helped us better understand JPEC's concerns. Laws can be developed in two ways, by rule or case-by-case over time. If we were to try to list all of the circumstances outside a judge's control, it would be a very long list. My question is do we try to come up with a list, or do we let the standards develop case-by-case over time?

Justice Durham: Establishing a more robust definition of compliance and exceptions would help, but there are two issues. First, who should have discretion, the Council or JPEC? Second, related to the exercise of discretion is the scope of the discretion. Under the current rule, that scope is very broad. This discussion is about how to narrow the

scope and make the standards more robust. If some of the discretion belongs with the Council, what is the scope of that discretion?

Judge Pullan: I don't like the good cause language. It isn't found in the statute and I think it should be eliminated. That is a narrowing of discretion.

Mr. Bahr: If the Council determines that a judge is non-compliant, is that information published by JPEC?

Dr. Yim: JPEC is statutorily required to invite a judge to appear if the judge fails a minimum standard. The judge can decline to appear, but it is not discretionary on JPEC's part. The commission will write a narrative giving the reasons for the failure and how the judge overcame that failure. If a judge chooses not to run for retention, certain parts of the report from the Council would be redacted as that information is protected.

Mr. Bahr: One of the BDCJ's concerns was what information would be made public.

Justice Durham: I recommend that we start focusing more on the creation of a rebuttable presumption, and maybe incorporate that language somewhere in the rule.

Judge Pullan: In terms of the legitimacy of our institutions, the Judicial Council has no interest in certifying bad judges and JPEC has no interest in decertifying good judges. If JPEC starts to decertify judges for things beyond their control, JPEC's legitimacy in the eyes of the public would be diminished. The same for the Council. Judge Pullan invited Dr. Yim, Justice Durham, and Ms. Romano to Policy and Planning's November meeting to continue this discussion and work on a rule draft. Judge Johnson and Judge Lawrence from the BDCJ will also be invited.

Ms. Williams will send Judge Heward, Judge Lawrence, and Judge Cannell a copy of the WebEx recording of today's meeting. Judge Heward will discuss this issue with the Board of Juvenile Court Judges. Judge Cannell will report to the BDCJ on October 16<sup>th</sup>.

**(3) Rules back from public comment:**

- 3-104. Presiding judges
- 3-111. Performance evaluation of senior judges and court commissioners
- 4-202.02. Records classification
- 6-507. Court visitor
- 3-407. Accounting
- 4-609. Procedure for obtaining fingerprints and OTNs on defendants not booked in jail
- 10-1-404. Attendance and assistance of prosecutors in criminal proceedings
- 4-401.01. Electronic media coverage of court proceedings
- 4-401.02. Possession and use of portable electronic devices

Ms. Williams reviewed rules back from public comment. Two comments were received on rule 6-507, and one comment was received on 4-401.02. No comments were received on the other seven rules.

Rule 6-507

Ms. Sylvester reviewed the public comments on Rule 6-507. A statutory reference in paragraph (2)(C) was corrected. In regard to the requirements under (3)(B), most of the rule simply codifies what court visitors are already doing, so I don't think this creates any additional burdens. In regard to interviewing physicians, I haven't heard of any significant challenges. From what I understand, court visitors just keep trying until they get in touch.

Judge Pullan: If a physician has conducted an assessment and provided information relevant to the physical or mental condition of the defendant, that's a pretty important person that I'd like to talk to.

Judge Connors: Most of the letters from physicians are incredibly general, and some are only 1-2 lines long. It's important to have someone follow up to ensure the physician conducted a thorough assessment, rather than taking mom or dad's word for it. I'm not aware of a single case where a court visitor has gone rogue and run up a bunch of fees and expenses. I would hate to remove "will" and change to "may" and then be unsure if I'm going to get useful reports from court visitors. There are circumstances when a court visitor can't get a physician to respond or do a home visit, but they usually just indicate that in their report. I don't think this is a problem.

Judge Cannell agreed.

Mr. Bahr: It can take quite a bit of time to get a response from a physician and it has been even more challenging lately with COVID, but that's a policy issue that could be handled on the program side. Court visitors can be instructed to make a note in the report regarding their efforts to contact a physician and move on.

Rule 4-401.02:

Ms. Williams reviewed the proposed amendments and public comment on behalf of Mr. Johnson. After reviewing the public comment, Mr. Johnson recommends one minor change, adding the word "portable" to the definition of "electronic device." Mr. Johnson's original concern was that people would be able to record remote proceedings from home with a device that would not necessarily be considered "portable," but the definition of electronic portable device includes personal computers (which are not easily portable), so including "portable" probably isn't an issue.

As for the public commenter's suggestion to simplify the language, that would require an entire re-write of the rule. Because remote hearings are common practice, there is some urgency to these changes and the rule as proposed is sufficiently clear. By way of background, the original purpose of the rule was to address the increasing use of electronic devices in courtrooms. The intent of the rule was to clarify that people would be permitted to silently use items such as cell phones and laptop computers in the courtroom, but no recording would be permitted. The focus of the rule was not necessarily on recording, but permitted uses. The current proposed amendment focuses more on recording.

Mr. Rice moved to approve all of the rules under this section (as amended) for recommendation to the Council that they be approved as final with an effective date of November 1st. Judge Connors seconded the motion. The motion passed unanimously.

**(4) 4-202.02. Records classification**

Ms. Williams: HB 206 went into effect on October 1, 2020. Judges are now required to consider an individual's ability to pay a monetary bail amount any time a financial condition of release is ordered. The Judicial Council recently adopted a new matrix that recommends monetary bail amounts based on an individual's gross household income and number of dependents. In order to provide judges with that information at the time an initial release decision is made, law enforcement will begin asking defendants those two questions and submitting the answers to the court electronically via the probable cause system.

Rule 4-202.02 classifies affidavits of indigency as Private records, but as it is currently written, the rule would not cover the two data elements because the answers would not be submitted as part of an affidavit. The proposed amendment at line 142 would cover both affidavits of indigency and the financial data elements as Private records. Programming required to submit and capture the two data elements has not yet been completed so there isn't a rush to approve the rule amendment at this time.

With no further discussion, Judge Cannel moved to approve the rule as proposed for recommendation to the Council that it be published for comment. Mr. Rice seconded the motion. The motion passed unanimously.

**(5) 4-403. Electronic and signature stamp usage**

**3-104. Presiding judges**

Rule 3-104

Ms. Williams reviewed the proposed amendments on behalf of Mr. Johnson. The proposed amendments at lines 132-134 identify district court presiding judges (PJs) as the signing judge on all automatic expungement orders in the presiding judge's district, including those in justice courts. Judge Cannell questioned whether district court presiding judges have jurisdiction to sign expungement orders in justice court matters. After further discussion, the committee asked Ms. Williams to follow-up with Mr. Johnson regarding the committee's concerns and email members with Mr. Johnson's response. The committee will vote via email whether to approve the rule as drafted for recommendation to the Council that it be published for comment.

Judge Cannell moved to approve the proposed amendment to rule 3-104, provided Mr. Johnson determines that district court presiding judges have jurisdiction to sign orders for justice courts, and the committee votes via email to approve those amendments. However, if district court PJs lack jurisdiction, he moved that the rule be amended to make justice court PJs the signing judges for justice court cases and district court PJs the signing judge in district court cases. Judge Heward seconded the motion. The motion passed unanimously.

Rule 4-403

Ms. Williams reviewed the proposed amendments on behalf of Mr. Johnson. Following a brief discussion, Judge Connors moved to approve the rule as drafted for recommendation to the Council that it be published for comment. Judge Cannell seconded the motion. With no objections, the motion passed unanimously.

**(6) 3-419. Office of Fairness and Accountability:**

Ms. Williams incorporated Judge Connor's feedback from the last meeting. The AOC is currently interviewing for the director position. Judge Pullan asked Ms. Williams to hold off on additional amendments to the rule until the new director is on board and can provide input. The committee made no changes to the proposed rule.

**(7) Old business/new business:**

Ms. Williams reported that Bart Olsen has prepared a packet of all of the proposed amendments to Human Resource (HR) policies. Because the revisions are so extensive, Mr. Olsen is proposing that he email Policy and Planning members a memo outlining the amendments. Members would conduct a review of the policies on their own time and provide feedback to Mr. Olsen prior to the November meeting. At the November meeting, the committee would review those policies flagged by members for discussion. Judge Pullan was in favor of Mr. Olsen's proposal and requested an executive summary of the proposed changes. Ms. Williams will report back to Mr. Olsen and add the HR policy revisions to the committee's November agenda.

**(8) ADJOURN:**

With no further items for discussion, Judge Cannell moved to adjourn the meeting. Mr. Rice seconded the motion. With no opposition, the meeting adjourned at 2 pm. The next meeting will be on November 6, 2020 at 9 am via WebEx video conferencing.



# TAB 2

## Proposed Amendments to Senior Judge Rules

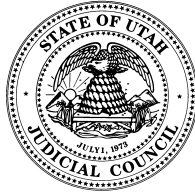
**Notes:** In accordance with the attached memo, the Board of Senior Judges is recommending proposed amendments to the following rules:

- 1-305. Board of Senior Court Judges
- 3-104. Presiding Judges
- 3-108. Judicial Assistance
- 3-113. Senior Judges
- 3-501. Insurance Benefits Upon Retirement
- 11-201. Senior Judges
- 11-203. Senior Justice Court Judges

The Judicial Council identified the questions/issues below related to the senior judge program:

- What is the fiscal impact of the senior judge program?
- How much do incentive benefits cost the judiciary, including insurance, education and training, travel, etc.?
- How much does the judiciary spend on the senior judge program as a whole and per judge? Is there a cost associated with inactive senior judges?
- How many active and inactive senior judges are there?
- How many, and which, senior judges have served in the last few years, and what was the total cost to the judiciary?
- How many, and which, senior judges have declined an assignment? If requests and declinations aren't being tracked, procedures should be developed.
- Should there be a set number of days a senior judge must serve to continue to receive incentive benefits?
- Should there be an age limit, and if so, what should it be?
- Education and training standards are needed, including the ability to utilize court technology.

- Should performance standards be implemented? If so, how should those be measured and tracked?
- Should there be a limit to the total number of senior judges?
- What is the senior judge need for each district? Based on that need, should a designated number of senior judge positions be assigned per district, with judges applying as positions become available?
- Should preference be given to newly retired judges?
- Court rules should be amended to clarify the responsibilities of the Supreme Court and Judicial Council. The Supreme Court establishes qualifications and certifies senior judges. The Judicial Council manages the program budget and determines the minimum contributions necessary to maintain eligibility.
- Considerations:
  - What is the projected backlog of cases/jury trials due to COVID?
  - How should senior judges be utilized to address the backlog? Should sitting judges handle jury trials, with senior judges freeing them up by handling regular calendar matters?
  - Will the number of electronic courtrooms minimize the need?
- Policy and Planning must draft a notice to the judiciary for the Council's consideration regarding a potential suspension of the senior judge program – or suspension of the approval of new applicants - pending a comprehensive review and evaluation of the costs and benefits associated with the program.



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

October 29, 2020

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

## MEMORANDUM

**TO:** Policy and Planning Committee

**FROM:** The Board of Senior Judges

**RE:** Proposed Amendments to Senior Judge Rules

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At the 2019 fall Annual Judicial Conference, the Board of Senior Judges discussed Court rules related to senior judges. Staff mentioned that some districts thought the rules permitted the appointment of a senior judge for calendar management and others did not think the rules allowed that type of appointment. Staff also mentioned that some of the rules did not reflect current practices. The Board of Senior Judges appointed a work group to review and revise the rules for senior judges. In January and February 2020, the Judicial Council Management Committee discovered that the rules did not clearly describe the appeals process for a judge who was not recommended for appointment as a senior judge by the Management Committee. The Judicial Council requested that the amendments include a clarification of that process.

The senior judge work group sent a proposal for amendments to the senior judges in February 2020, and planned to review the proposed amendments at a Board meeting in March. The pandemic interfered, and the Board delayed the discussion of the proposed amendment until the September 2020 Board Meeting during the All Judicial Conference. The proposed amendments attached to this memo reflect the feedback from the senior judges and were approved for submission to the Policy and Planning Committee on October 20, 2020.

### **The following is a brief description of the amendments:**

Three different rules addressed the appointment of senior judges, Rule 3-104(3)(c), Rule 3-108 and Rule 11-201(6). The amendments move all of the appointment language to Rule 3-108, and clarify the authority to appoint, and when permission for appointment is needed from the Management Committee.

Rule 1-305 amendments reduce the number of Board members from 7 to 5, and reduce the required meetings to once a year.

**The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.**

Rule 3-113 is amended to permit a senior judge to be compensated for mentoring a new judge. This amendment was added at the request of Judicial Education. The amendments to this rule also increase the amount paid for non-courtroom duties such as Board meetings, conferences, and education from \$25 to \$50 for a half day, and from \$50 to \$100 for a full day.

Rule 3-501 provides reimbursement of 50% of the cost of health insurance for an active senior judge and the judge's spouse, if the active senior judge has exhausted earned accumulated health benefits, and the active senior judge performs case work, subject to being called, for at least 6 judicial days a year. Many active senior judges do not have an opportunity to perform 6 judicial days of work in a year and the Board recommends keeping the "subject to being called" language in the rule. The Board recommends requiring an active senior judge to inform the deputy state court administrator if the judge moves to inactive status so that the health insurance benefit can be adjusted appropriately.

Finally, the amendments to Rule 11-201 require a senior judge to maintain familiarity with court case management systems, such as Coris and Care; require an applicant to disclose if any criminal charges, other than infractions, are pending at the time of application; and clarify the process for appealing a recommendation from the Management Committee to the Supreme Court.

#### **Additional Information requested by the Judicial Council:**

The Judicial Council requested that the Policy and Planning Committee be given a list of current senior judges (TAB B), the budget for senior judges (TAB C), a list of service hours for senior judges over the past 4 years (which we have de-identified, TAB D), the estimated jury trial backlog, and the list of cost that are incurred for a senior judge (other than compensation for judicial work).

The AOC estimates current district court trial backlog as follows:

- Criminal Jury Trials = ~200 (typically average 24 per month)
- Civil Jury Trials = ~35 (typically average 5 per month)
- Criminal Bench Trials = ~140 (typically average 19 per month)
- Civil Bench Trials = ~335 (typically average 72 per month; currently able to conduct ~50 per month)

The information for cost other than judicial work includes State Bar dues, the cost to the court for judicial officer attendance at the All Judicial and the spring bench conferences, and the cost of the senior judge health insurance incentive benefit for those judges who qualify for that benefit. The list of costs does not include the cost of code books because they are no longer provided to the senior judges, or the judicial operations budget in the amount of \$500 this year (usually \$900 a year) because historically only a few senior judges use their judicial operations budget. Those who use it typically use it to attend the Bar Convention. In 2019 less than \$1,500 of the judicial operations budget was used and for 2020 less than \$500 of the judicial operations budget was used.

The summary of annual costs is:

Bar Dues	\$ 425.
Judicial Conf.	\$ 500. (avg)
Bench Conf.	\$ 500.(avg)
Incentive benefit*	\$1,886.52 to \$4,147.20

\*(monthly premium ranges from \$314.42 to \$691.20 per month for a judge and spouse. The incentive benefit is 50%. So the range is 157.21 to 345.60 per month. 10 judges qualify)

Tab A

**Rule 1-305. Board of Senior Judges.**

Intent:

To establish a Board of Senior Judges consisting of senior justices and senior judges of courts of record.

To prescribe the composition of the Board's membership, the method of selection of Board members, the members' terms of office, the Board's officers, the procedures to be followed in the event of vacancies, the frequency of Board meetings, and the procedures to be followed in the conduct of Board meetings.

To increase the level of participation of senior justices and senior judges in the development of policy for the judiciary.

To improve communication between the Council and senior justices and senior judges.

Applicability:

This rule shall apply to the Board of Senior Judges.

Statement of the Rule:

(1) For purposes of this rule, "senior judge" means active senior justice or active senior judge.

(2) Board of senior judges.

(2)(A) Establishment. There is established a Board of Senior Judges.

(2)(B) Membership. The Board shall be comprised of ~~seven~~ five active senior judges, elected at the annual judicial conference senior judge business meeting, by all senior judges who are in attendance ~~at the meeting~~.

(2)(C) Election. The senior judges present at the business meeting shall constitute a quorum. Nominations for Board positions may be made by any senior judge. All senior judges present at the meeting shall be entitled to vote for ~~all~~ members of the Board.

(2)(D) Terms. The terms of the ~~initial~~ Board members shall be ~~determined by lot, with four~~ three ~~members selected to serve two-year terms and three members selected to serve one-year terms. Successors shall be elected for two-year terms. A Board member shall not serve more than two consecutive terms and the remainder of a predecessor's term.~~

(2)(E) Vacancies. If a vacancy occurs for any reason on the Board, the Board shall elect a replacement for the unexpired term of the vacancy.

(3) Board officers.

(3)(A) Establishment. There shall be a chair and vice-chair of the Board. Both the chair and vice chair shall be active senior judges.

(3)(~~B~~) Election. The chair and vice chair shall be elected by the Board members.

(3)(~~B~~)(C) Chair and vice chair's term. The chair and vice-chair shall be elected to serve a one-year term, effective ~~The chair shall serve a one-year term beginning~~ immediately after the annual

judicial conference. ~~in the~~ The year following election as the vice chair shall assume the chair position. A new vice chair shall be appointed each year.

(3)(~~C~~)(D) Chair and vice chair's responsibilities. The chair shall preside over all meetings of the Board and the annual judicial conference senior judge business meeting, and shall perform other duties as set forth in this Code and as directed by the Board. The vice-chair shall serve as chair in the absence of the chair or at the request of the chair.

(3)(~~D~~)(E) Vacancy in office of chair or vice chair. In the event that the chair resigns or leaves the Board for any reason, the vice-chair shall become chair, serving both the unexpired term of the chair and the full term as chair. In the event that the vice-chair resigns from the Board for any reason, a new vice-chair shall be elected by the Board from among its members to serve the unexpired term of the vice-chair and to succeed as chair as otherwise provided in this rule.

Voting and replacement of the vice chair may be conducted by e-mail if a replacement is needed before the next annual judicial conference.

(3)(~~E~~) Election. ~~The vice chair shall be elected by the Board members at the commencement of the first year of the vice chair's two year term on the Board.~~

(3)(~~F~~) Vice chair's responsibilities. ~~The vice chair shall serve as chair in the absence of the chair or at the request of the chair.~~

(3)(~~G~~) Vacancy in office of vice chair. ~~In the event that the vice chair resigns from the Board for any reason, a new vice chair shall be elected by the Board from among its members to serve the unexpired term of the vice chair and to succeed as chair as otherwise provided in this rule.~~

(3)(~~H~~)(F) Secretariat services. The Administrative Office shall serve as secretariat to the Board.

(3)(~~I~~)(G) Board responsibility. The Board shall exercise such authority and assume such responsibility as delegated by the Council.

(4) Meetings of the ~~b~~Board.

(4)(A) The Board shall meet not less than ~~twice~~ once a year to transact any and all business that is within its jurisdiction.

(4)(B) The Board shall rule by majority vote. All Board members have the right to vote. ~~Four~~ Three members of the Board constitute a quorum.

(4)(~~C~~) ~~Board meetings shall be conducted in accordance with Robert's Rules of Order and this Code.~~



**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.**

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge

courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) Absence of presiding judge. When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

**(3) Administrative responsibilities and authority of presiding judge.**

**(3)(A) Generally.**

(3)(A)(i) The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of 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) With the consent of the senior judge, The the presiding judge is authorized to ~~use~~ assign a senior judge for coverage or judicial assistance consistent with Rule 3-108. 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).

Comment [CJD1]: Appointment language from this rule and rule 11-201 was placed in Rule 3-108 so it was all in one spot (and hopefully clarified)

(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.~~

Comment [CJD2]: Moved to Rule 3-108

~~(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 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.

Draft Sept 10, 2020

**Rule 3-108. Judicial Assistance.**

**Intent:**

To establish the authority, procedure and criteria for judicial assistance.

**Applicability:**

This rule shall apply to judicial assistance provided by active senior judges and judges of courts of record.

**Statement of the Rule:**

(1) A senior judge may not be appointed without the consent of the senior judge.

(2) Criteria for requesting assistance. Judicial assistance shall be provided only for the following reasons:

(2)(A) to prevent the occurrence of a backlog in the court's calendar when assistance is needed because of a judicial vacancy or an absence due to an illness, accident or disability;

(2)(B) to prevent the occurrence of or reduce a critical accumulated backlog;

(2)(C) to handle a particular case involving complex issues and extensive time which would have a substantial impact on the court's calendar;

(2)(D) to replace a sitting judge who is absent because of assignment as a tax judge, illness or to replace the judges in that location because of disqualification in a particular case;

(2)(E) to handle essential cases when there is a vacant judicial position; to mentor a newly appointed judge;

(2)(F) to handle high priority cases during vacation periods or during attendance at education programs by the sitting judge, following every effort by that judge to adjust the calendar to minimize the need for assistance and only to handle those matters which cannot be accommodated by the other judges of the court during the absence;

(2)(G) to provide education and training opportunities to judges of one court level in the disposition of cases in another court level; and

(2)(H) in district court, to handle cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration.

**(3) Assigning a senior judge for judicial assistance.**

(3)(A) If assistance is sought under paragraphs (2)(A) for less than 14 judicial days, the presiding judge may assign a senior judge without first seeking coverage from active judges under the criteria of paragraph (4).

(3)(B) Prior to appointing a senior judge for any reason other than paragraph (2)(A), the presiding judge shall seek assistance under the criteria of paragraph (4).

(3)(C) If the assignment of a senior judge will be for more than 14 judicial days, the presiding judge shall seek approval from the Management Committee, and present to the Management Committee a plan for meeting the needs of the court and a budget to implement the plan. The plan should describe the calendars to be covered by judges of the district, judges of other

Comment [CJD1]: Intent is to merge appointment rules 1-305 and 11-201 and 1-308 into one rule to make the process easier to find and understand.

districts, and senior judges. The budget should estimate the funds needed for travel by judges and senior judges. An appointment of a senior judge under this paragraph may not exceed 60 cumulative judicial days in a calendar year.

(3)(D) In extraordinary circumstances, the chief justice may appoint a senior judge for a period of time not to exceed 60 judicial days per calendar year, which may be in addition to the other assignments under this paragraph. A presiding judge requesting an assignment under extraordinary circumstances shall follow the criteria under paragraph (4) and present a plan for meeting the needs of the court to the chief justice.

Comment [CJD2]: Text from Rule 11-201(6)

~~(2)~~ (4) **Criteria for transferring or assigning judges.** The transfer or assignment of judges shall be based upon the following priorities:

(42)(A) experience and familiarity with the subject matter, including, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, knowledge of the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation;

(42)(B) active judges before active senior judges with consideration of the following:

(4)(B)(i) active judges from a court of equal jurisdiction in a different geographical division than the court in need, who are physically situated nearest and are most convenient to that court;

(42)(B)(ii) active senior judges from a court of equal jurisdiction to the court in need who are physically situated nearest and are most convenient to that court;

(42)(B)(iii) active judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is most closely related to that court and who are in close proximity to it;

(42)(B)(iv) active judges from a court of equal jurisdiction in a different geographical division than the court in need who are far removed from that court;

(42)(B)(v) active judges or active senior judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is similar to that court who are not in close proximity;

(42)(C) availability;

(42)(D) expenses and budget.

~~(3)~~ (5) **Assignment of active judges.**

(53)(A) Any active judge of a court of record may serve temporarily as the judge of a court with equal jurisdiction in a different judicial district upon assignment by the presiding judge of the district in which the judge to be assigned normally sits or, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, assignment by the supervising tax judge with the approval of the presiding officer of the Judicial Council.

(53)(B) Any active judge of a court of record may serve temporarily as the judge of a court with different jurisdiction in the same or a different judicial district upon assignment by the presiding



officer of the Council or assignment by the state court administrator or designee with the approval of the presiding officer of the Council.

~~(53)~~(C) The assignment shall be made only after consideration of the judge's calendar. The assignment may be for a special or general assignment in a specific court or generally within that level of court and shall be for a specific period of time, or for the duration of a specific case. Full time assignments in excess of 30 days in a calendar year shall require the concurrence of the assigned judge. The state court administrator or designee shall report all assignments to the Council on an annual basis.

~~(53)~~(D) Requests for the assignment of a judge shall be conveyed, through the presiding judge, to the person with authority to make the assignment under paragraphs ~~(5)~~(A) and (B). A judge who is assigned temporarily to another court shall have the same powers as a judge of that court.

~~(4)~~ ~~(6)~~ Notice of assignments made under this rule shall be made in writing, a copy of which shall be sent to the state court administrator or designee.

~~(5)~~ ~~(7)~~ **Schedule of trials or court sessions.** The state court administrator or designee, under the supervision of the presiding officer of the Council, may schedule trials or court sessions and designate a judge to preside, assign judges within courts and throughout the state, reassign cases to judges, and change the county for trial of any case if no party to the litigation files timely objections to the change.

**Rule 3-113. Senior judges.**

**Intent:**

To establish the responsibility to provide for support services for active senior judges.

To provide for the compensation of active senior judges.

**Applicability:**

This rule shall apply to judicial employees and to senior judges and active senior judges of courts of record.

**Statement of the Rule:**

**(1) Support services.**

(1)(A) The court executive of the court in which an active senior judge is serving shall make available clerical and bailiff services as would normally be needed in the performance of the a judge's official duties. ~~The court executive of the court in which an active senior judge is serving shall make available court reporting equipment and personnel in accordance with Rule 3-305 and Rule 4-201.~~

(1)(B) The court executive of the court in which an active senior judge is serving shall execute the necessary notice of appointment for the case or matters to which the judge has been assigned. The order of assignment shall include the district the judge will serve, the court location, the assignment for which service is needed (including the case name and/or the bench the judge will serve) and the signature and date of the presiding judge. The order shall be sent to the state court administrator or designee.

(1)(C) The court executive of the district in which an active senior judge ~~resides~~ serves shall provide the following assistance as needed:

- (i) secretarial services;
- (ii) mail services;
- (iii) files and court documents;
- (iv) travel arrangements; and
- (v) preparation of reimbursement vouchers.

(1)(D) Active senior judges shall be provided with a current set of the soft cover edition of the Utah Code and a subscription to Utah Advance Reports and Annotations ~~as~~ provided by Rule 3-413.

**(2) Compensation.** Active senior judges shall be compensated at the rate and for the services and duties as set forth herein.

(2)(A) Compensation for the performance of judicial duties related to the assignment of cases or the mentoring of a new judge shall be at an hourly rate equal to the hourly

rate of a district judge, and shall be paid in half-day increments: half day (1-4 hours)  
and full day (over 4 hours).

(2)(B) Compensation for all other duties, such as attendance at Board meetings, committee meetings, and educational functions required by this Code shall be paid at the rate of ~~\$25.00~~ \$50.00 per half day (1-4 hours) and ~~\$50.00~~ \$100.00 per full day (over 4 hours).

(2)(C) For travel required in the performance of judicial duties related to the assignment of cases, senior judges shall be compensated for travel time in excess of one and one-half hours round trip at the hourly rate of a district judge, and for expenses, e.g., per diem, mileage, and lodging, at the rates allowed for state employees. Active senior judges are required, as court employees, to complete the Defensive Driver Training every two years.

(2)(D) For travel required in the performance of judicial duties not related to the assignment of cases, senior judges shall be compensated for round-trip travel time as follows:

0 - 1.5 hours No payment

1.5 - 5.5 hours \$25.00

More than 5.5 hours \$50.00

and for expenses, e.g., per diem, mileage, and lodging, at the rates allowed for state employees. Because senior judges do not have access to state vehicles, mileage shall be paid at the higher rate for state employees.

(2)(E) Except for the incentive benefit in Rule 3-501. Compensation shall not include any form of benefits, i.e., state retirement contributions, medical or life insurance premiums, etc.

Comment [CJD1]: Rule 3-501 provides health insurance benefits as an incentive

**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 exceed seven years. Automatic benefits shall not exceed five years. Earned benefits and automatic benefits shall not exceed seven years.

(3)(B) Earned benefits and automatic benefits shall terminate when the justice, judge, or commissioner is eligible for Medicare, except that prescription drug insurance and supplemental Medicare insurance shall continue for the balance of the term of earned or automatic benefits.

(3)(C) If the spouse of the justice, judge, or court commissioner qualifies for medical insurance, prescription drug insurance or dental insurance under subsection (1)(C), such insurance shall continue for the period of earned or automatic benefits or until

the spouse becomes eligible for Medicare, whichever is earlier, except that prescription drug insurance and supplemental Medicare insurance for the spouse shall continue for the balance of the term of earned or automatic benefits.

(3)(D) Earned or automatic ~~B~~benefits for dependents, other than a spouse, of the justice, judge, or court commissioner terminate when the justice, judge, or court commissioner reaches age 65.

(4) As authorized by Utah Code ~~Section~~ § 78A-2-107(9), the state ~~C~~court ~~A~~administrator or designee will develop methods for recording sick leave use by justices, judges, and court commissioners and for recording sick leave conversion to paid up medical, dental and life insurance benefits.

**(5) Active ~~S~~senior ~~J~~judge incentive benefit.**

(5)(A) The judiciary will pay 50% of the cost of medical and dental insurance premiums for a qualifying senior judge and spouse until the qualifying senior judge is age 65. The judiciary will pay 50% of the cost of supplemental Medicare insurance and prescription drugs for a qualifying senior judge and spouse if the senior judge is age 65 or older.

(5)(B) To qualify for the incentive benefit the active senior judge must:

(5)(B)(i) qualify as an active senior judge pursuant to Rule 11-201;

(5)(B)(ii) have exhausted the earned and automatic ~~other~~ benefits provided for by this rule;

(5)(B)(iii) submit to the state court administrator or their designee on or before July 1 of each year a letter expressing an intent to participate in the incentive benefit program;

(5)(B)(iv) perform case work, subject to being called, for at least 6 judicial days per fiscal year; and

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

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

(6) If an active senior judge who receives the incentive benefit changes to inactive status, the senior judge shall notify the state court administrator or designee in writing that he has converted to inactive status and is receiving the incentive benefit. The state court administrator or designee shall notify Human Resources and PEHP of the change in status.

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

**Rule 11-201. Senior Judges.**

**Intent:**

To establish the qualifications, term, authority, appointment and assignment for senior judges.

**Applicability:**

This rule shall apply to judges of courts of record.

The term "judge" includes justices of the Supreme Court.

**Statement of the Rule:**

**(1) Qualifications.**

(1)(A) A judge may apply to become a senior judge, on either inactive or active status.

(1)(B) ~~Inactive Senior Judge~~. To be an inactive senior judge, a judge shall:

(1)(B)(i) have been retained in the last election for which the judge stood for election;

(1)(B)(ii) have voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, shall have recovered from or shall have accommodated that disability;

(1)(B)(iii) demonstrate appropriate ability and character;

(1)(B)(iv) be admitted to the practice of law in Utah, but shall not practice law; and

(1)(B)(v) be eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.

(1)(C) ~~Active Senior Judge~~. To be an active senior judge, a judge shall:

(1)(C)(i) meet the qualifications of an inactive senior judge;

(1)(C)(ii) be a current resident of Utah and be available to take cases;

(1)(C)(iii) be physically and mentally able to perform the duties of judicial office;

(1)(C)(iv) maintain familiarity with current statutes, rules, case law, and court case management systems, such as CORIS for district courts, and CARE for juvenile courts;

(1)(C)(v) satisfy the education requirements of an active judge set forth in Rule 3-403;

(1)(C)(vi) attend the annual judicial conference;

(1)(C)(vii) accept assignments, subject to being called, at least two days per calendar year;

(1)(C)(viii) conform to the Code of Judicial Conduct, the Code of Judicial Administration and rules of the Supreme Court;

(1)(C)(ix) have obtained results on the most recent judicial performance evaluation prior to termination of service sufficient to have been recommended for retention regardless of whether the evaluation was conducted for self-improvement or certification;

(1)(C)(x) continue to meet the requirements for judicial retention as those requirements are determined by the Judicial Council to be applicable to active senior judges;

(1)(C)(xi) undergo a performance evaluation every eighteen months following an initial term as an active senior judge; and

38 (1)(C)(xii) take and subscribe an oath of office to be maintained by the state court  
39 administrator or the administrator's designee.

40 (2) **Disqualifications.** To be an active senior judge, a judge:  
41 (2)(A) shall not have been removed from office or involuntarily retired on grounds other than  
42 disability;  
43 (2)(B) shall not have been suspended during the judge's final term of office or final six years  
44 in office, whichever is greater;  
45 (2)(C) shall not have resigned from office as a result of negotiations with the Judicial  
46 Conduct Commission or while a complaint against the applicant was pending before the  
47 Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable  
48 cause; and  
49 (2)(D) shall not have been subject to any order of discipline for conduct as a senior judge.  
50 (3) **Term of Office.**  
51 (3)(A) The initial term of office of an inactive senior judge is until December 31 of the  
52 second year following appointment. The initial term of office of an active senior judge less than  
53 age 75 years is until December 31 of the second year following appointment or until December  
54 31 of the year in which the judge reaches age 75, whichever is shorter. The initial term of office  
55 of an active senior judge age 75 years or more is until December 31 of the year following  
56 appointment.  
57 (3)(B) A subsequent term of office of an inactive senior judge is for three years. A  
58 subsequent term of office of an active senior judge is three years or until December 31 of the  
59 year in which the judge reaches age 75, whichever is shorter. The subsequent term of office of an  
60 active senior judge age 75 years or more is for one year.  
61 (3)(C) All subsequent appointments begin on January 1. The Supreme Court or Judicial  
62 Council may withdraw an appointment with or without cause.  
63 (4) **Authority.** An active or inactive senior judge may solemnize marriages. An active senior  
64 judge, during an assignment, has all the authority of the office of a judge of the court to which  
65 the assignment is made.  
66 (5) **Application and Appointment.**  
67 (5)(A) To be appointed a senior judge a judge shall apply to the Judicial Council for either  
68 inactive or active status and shall submit relevant information as requested by the Judicial  
69 Council.  
70 (5)(B) The applicant shall:  
71 (5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered  
72 by the Supreme Court; and  
73 (5)(B)(ii) declare whether at the time of the application there is any complaint against the  
74 applicant pending before the Supreme Court or pending before the Judicial Conduct  
75 Commission after a finding of reasonable cause; and

76 (5)(B)(iii) declare whether at the time of the application there is any criminal charge,  
77 other than an infraction, pending against the applicant.

78 (5)(B)(iv) Judges who declined to participate in an attorney survey in anticipation of  
79 retirement may use the results of an earlier survey to satisfy paragraph (1)(C)(ix).

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80 (5)(C) After considering all information, including any performance evaluation conducted  
81 under rule 3-111, the Judicial Council may ~~certify to notify~~ the Supreme Court that the applicant  
82 meets the qualifications ~~of for appointment as an inactive~~ senior judge or active senior judge, ~~or~~  
83 ~~that the applicant does not meet the qualifications.~~

84 (5)(C)(i) The Judicial Council shall inform an applicant, in writing, if the Judicial  
85 Council notifies the Supreme Court that the applicant does not meet the qualifications for  
86 appointment as an active senior judge or an inactive senior judge. forward to, and the  
87 Supreme Court shall review, information on all applicants.

88 (5)(C)(ii) Any An applicant who ~~is not certified by~~ receives notice from the Judicial  
89 Council under paragraph (5)(C)(i), may, within 14 days of the date the Judicial Council sent  
90 the notice, may submit to the Supreme Court a written explanation on why the applicant  
91 should be appointed as an inactive senior judge or active senior judge.;

92 (5)(C)(iii) The Supreme Court shall review the information about each applicant. With the  
93 concurrence of a majority of the members of the Supreme Court, the ~~Chief chief~~ Justice may  
94 appoint the judge as an inactive senior judge or active senior judge.

95 ~~Judges who declined, under former Rule 3-111, to participate in an attorney survey in~~  
96 ~~anticipation of retirement may use the results of an earlier survey to satisfy Subsection~~  
97 ~~(1)(B)(ix).~~

98 (6) ~~Assignment.~~ ~~(6)(A) With the consent of the active senior judge, the presiding judge may~~  
99 ~~assign an active senior judge to a case or for a specified period of time. Cumulative assignments~~  
100 ~~under this subsection shall not exceed 60 days per calendar year except as necessary to complete~~  
101 ~~an assigned case.~~

Comment [CJD1]: This was moved to Rule 3-108. We had appointment language in 3 different rules and the language did not all match

102 ~~(6)(B) In extraordinary circumstances and with the consent of the active senior judge, the~~  
103 ~~chief justice may assign an active senior judge to address the extraordinary circumstances for a~~  
104 ~~specified period of time not to exceed 60 days per calendar year, which may be in addition to~~  
105 ~~assignments under subsection (6)(A). To request an assignment under this subsection, the~~  
106 ~~presiding judge shall certify that there is an extraordinary need. The state court administrator~~  
107 ~~shall certify whether there are funds available to support the assignment.~~

Comment [CJD2]: Moved to Rule 3-108

108 (6) ~~(CA)~~ An active senior judge may be assigned to any court other than the Supreme Court.

109 (6) ~~(DB)~~ The state court administrator ~~or the administrator's designee~~ shall provide such  
110 assistance to the presiding judge and chief justice as requested and shall exercise such authority  
111 in making assignments as delegated by the presiding judge and chief justice.

112 (6) ~~(EC)~~ Notice of an assignment made under this rule shall be in writing and maintained by  
113 the state court administrator ~~or the administrator's designee.~~

114 (7) Changes to senior judge status.



(7)(A)(i) An active senior judge may convert to inactive status during the term of appointment if the senior judge sends written notice of the change in status to the chief justice of the Supreme Court and the state court administrator or the administrator's designee. An active senior judge who converts to inactive status may not receive an incentive benefit under Rule 3-501 while on inactive status.

(7)(A)(ii) A senior judge who converts to inactive status under (7)(A)(i) may return to active status for the remainder of the senior judge's unexpired term if the senior judge sends written notice of the judge's intent to return to active status to the chief justice of the Supreme Court and to the state court administrator or the administrator's designee.

(7)(B) A senior judge who resigns from senior judge service during the term of appointment shall send written notice to the chief justice of the Supreme Court and to the state court administrator or the administrator's designee.

**Rule 11-203. Senior justice court judges.**

**Intent:**

To establish the qualifications, term, authority, appointment and assignment for senior justice court judges.

**Applicability:**

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

**Statement of the Rule:**

**(1) Qualifications.**

(1)(A) A judge may apply to become a senior justice court judge, on either inactive or active status.

(1)(B) ~~Inactive Ssenior Jjustice Ccourt Jjudge.~~ To be an inactive senior justice court judge, a judge shall:

(1)(B)(i) have been retained in the last election for which the judge stood for election;

(1)(B)(ii) have voluntarily resigned from judicial office, been laid off pursuant to a reduction in force, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, shall have recovered from or shall have accommodated that disability;

(1)(B)(iii) demonstrate appropriate ability and character;

(1)(B)(iv) have been in office for at least five years; and

(1)(B)(v) comply with the restrictions on secondary employment provided by the Utah Code.

(1)(C) ~~Active Ssenior Jjustice Ccourt Jjudge.~~ To be an active senior justice court judge, a judge shall:

(1)(C)(i) meet the qualifications of an inactive senior justice court judge;

(1)(C)(ii) be a current resident of Utah;

(1)(C)(iii) be physically and mentally able to perform the duties of judicial office;

(1)(C)(iv) maintain familiarity with current statutes, rules and case law;

(1)(C)(v) satisfy the education requirements of an active justice court judge;

(1)(C)(vi) accept assignments, subject to being called, at least two days per calendar year;

(1)(C)(vii) conform to the Code of Judicial Conduct, the Code of Judicial Administration and rules of the Supreme Court;

(1)(C)(viii) have obtained results on the most recent judicial performance evaluation prior to termination of service sufficient to have been

- recommended for retention, regardless of whether the evaluation was conducted for self-improvement or certification;
- (1)(C)(ix) continue to meet the requirements for judicial retention as those requirements are determined by the Judicial Council (Council) to apply to active senior justice court judges; and
- (1)(C)(x) undergo a performance evaluation every eighteen months following an initial term as an active senior judge; and
- (1)(C)(xi) take and subscribe an oath of office to be maintained by the state court administrator or their designee.
- (2) **Disqualifications.** To be an active senior justice court judge, a judge shall not:
- (2)(A) have been removed from office or involuntarily retired on grounds other than disability;
- (2)(B) have been suspended during the judge's final term of office or final six years in office, whichever is greater;
- (2)(C) have resigned from office as a result of negotiations with the Judicial Conduct Commission or while a complaint against the applicant was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause; and
- (2)(D) have been subject to any order of discipline for conduct as a senior justice court judge.
- (3) **Term of ~~O~~office.**
- (3)(A) The initial term of office of an inactive senior justice court judge is until December 31 of the second year following appointment. The initial term of office of an active senior justice court judge less than age 75 years is until December 31 of the second year following appointment or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The initial term of office of an active senior justice court judge age 75 years or more is until December 31 of the year following appointment.
- (3)(B) A subsequent term of office of an inactive senior justice court judge is for three years. A subsequent term of office of an active senior justice court judge is three years or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The subsequent term of office of an active senior justice court judge age 75 years or more is for one year.
- (3)(C) All subsequent appointments begin on January 1. The Supreme Court may withdraw an appointment with or without cause.
- (4) **Authority.** A senior justice court judge may solemnize marriages. An active senior justice court judge, during an assignment, has all the authority of a justice court judge.
- (5) **Application and Appointment.**

(5)(A) To be appointed a senior justice court judge a judge shall apply to the Judicial Council for either inactive or active status and shall submit relevant information as requested by the Judicial Council.

(5)(B) The applicant shall:

(5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered by the Supreme Court; and

(5)(B)(ii) declare whether at the time of the application there is any complaint against the applicant pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause.

(5)(C) After considering all information, including any performance evaluation conducted under rule 3-111, the Judicial Council may certify to the Supreme Court that the applicant meets the qualifications of a senior judge or active senior judge. The Judicial Council shall forward to, and the Supreme Court shall review, information on all applicants. Any applicant who is not certified by the Judicial Council may submit to the Supreme Court a written explanation on why the applicant should be appointed as an inactive senior judge or active senior judge despite not being certified by the Judicial Council. The written explanation shall be submitted to the Supreme Court no later than 14 days after the applicant is notified that the applicant is not certified. With the concurrence of a majority of the members of the Supreme Court, the Chief Justice may appoint the judge as an inactive senior judge or active senior judge.

**(6) Assignment.**

(6)(A) With the consent of the active senior justice court judge, the governing body for a justice court may assign an active senior justice court judge to a case or for a specified period of time. Cumulative assignments under this subsection shall not exceed 60 days per calendar year except as necessary to complete an assigned case.

(6)(B) In extraordinary circumstances and with the consent of the active senior justice court judge, the chief justice may assign an active senior justice court judge to address the extraordinary circumstances for a specified period of time not to exceed 60 days per calendar year, which may be in addition to assignments under subsection (6)(A). To request an assignment under this subsection, the governing body shall certify that there is an extraordinary need.

(6)(C) An active senior justice court judge may be assigned to any justice court in the state.

(6)(D) The governing body shall make the assignment in writing and send a copy to the court to which the active senior justice court judge is assigned and to the state court administrator or their designee.

Tab B

<b>Last Name</b>	<b>First Name</b>	<b>Court</b>
Allphin	Michael	District - 2
Atherton	Judith	District - 3
Bachman	Kent	Juvenile - 1 & 2
Barrett	William	District - 3
Beacham	Rand	District - 5
Bench	Russell	Appellate - COA
Billings	Judith	Appellate - COA
Dawson	Glen	District - 2
Dever	Lee	District - 3
Eyre	Donald	District - 4
Fuchs	Dennis	District - 3
Hadfield	Ben	District - 1
Hadley	Scott	District - 2
Hansen	Steven	District
Hornak	Kimberly	Juvenile - 3
Judkins	Clint	District - 1
Low	Gordon	District - 1
Lyon	Michael	District - 2
Maughan	Paul	District - 3
Oddone	Frederic	Juvenile - 3
Peuler	Sandra	District - 3
Reese	Robin	District - 3
Sainsbury	Sterling	Juvenile - 4
Stott	Gary	District - 4
West	Brent	District - 2
Willmore	Thomas	District - 1

Tab C

**SENIOR JUDGE EXPENDITURE SUMMARY FOR JULY 2020**  
**FISCAL YEAR 2021**  
**FISCAL PERIOD 01**  
**10/28/2020**

**Allocated budget for FY 2021** **168,100.00**

<b>Expenses for July 31, 2020</b>	<b>July 2020</b>	<b>Year to Date</b>	
Personnel Services	0.00	0.00	
Travel - In State	0.00	0.00	
Travel - Out of State	0.00	0.00	
Books and Subscriptions	0.00	0.00	
Membership Dues	8,400.00	8,400.00	
Conventions, Seminars, Workshops & Committees	0.00	0.00	
Taxable Meal Allowance	0.00	0.00	
Utah Sales and Use Tax (Refundable)	0.00	0.00	
<b>Total Expenses</b>	<b>8,400.00</b>	<b>8,400.00</b>	<b><u>8,400.00</u></b>

**Pending Expenditures as of July 31, 2020**

Personnel Services	0.00	
Travel	0.00	
Taxable Meals	0.00	
Conventions, Seminars, Workshops & Committees	0.00	
<b>Total Pending Expenses</b>		<b><u>0.00</u></b>

**Remaining budget for FY 2021** **159,700.00**



SENIOR JUDGE EXPENDITURE SUMMARY FOR AUGUST 2020  
FISCAL YEAR 2021  
FISCAL PERIOD 02  
10/28/2020

Allocated budget for FY 2021 168,100.00

Expenses for August 31, 2020	August 2020	Year to Date	
Personnel Services	5,999.62	5,999.62	
Travel - In State	0.00	0.00	
Travel - Out of State	0.00	0.00	
Books and Subscriptions	0.00	0.00	
Membership Dues	0.00	8,400.00	
Conventions, Seminars, Workshops & Committees	0.00	0.00	
Taxable Meal Allowance	0.00	0.00	
Utah Sales and Use Tax (Refundable)	0.00	0.00	
<b>Total Expenses</b>	<b>5,999.62</b>	<b>14,399.62</b>	<b><u>14,399.62</u></b>

Pending Expenditures as of August 31, 2020

Personnel Services	0.00	
Travel	0.00	
Taxable Meals	0.00	
Conventions, Seminars, Workshops & Committees	0.00	
<b>Total Pending Expenses</b>		<b><u>0.00</u></b>

Remaining budget for FY 2021 153,700.38

**SENIOR JUDGE EXPENDITURE SUMMARY FOR SEPTEMBER 2020**  
**FISCAL YEAR 2021**  
**FISCAL PERIOD 03**  
**10/28/2020**

<b>Allocated budget for FY 2021</b>			<b><u>168,100.00</u></b>
<b>Expenses for September 30, 2020</b>	<b>September 2020</b>	<b>Year to Date</b>	
Personnel Services	7,053.65	13,053.27	
Travel - In State	71.66	71.66	
Travel - Out of State	0.00	0.00	
Books and Subscriptions	0.00	0.00	
Membership Dues	0.00	8,400.00	
Conventions, Seminars, Workshops & Committees	0.00	0.00	
Taxable Meal Allowance	0.00	0.00	
Utah Sales and Use Tax (Refundable)	0.00	0.00	
<b>Total Expenses</b>	<b>7,125.31</b>	<b>21,524.93</b>	<b><u>21,524.93</u></b>
<b>Pending Expenditures as of September 30, 2020</b>			
Personnel Services	0.00		
Travel	0.00		
Taxable Meals	0.00		
Conventions, Seminars, Workshops & Committees	0.00		
<b>Total Pending Expenses</b>			<b><u>0.00</u></b>
<b>Remaining budget for FY 2021</b>			<b><u><u>146,575.07</u></u></b>

**SENIOR JUDGE EXPENDITURE SUMMARY THROUGH OCTOBER 27, 2020**  
**FISCAL YEAR 2021**  
**FISCAL PERIOD 04**  
**10/28/2020**

<b>Allocated budget for FY 2021</b>			<b><u>168,100.00</u></b>
<b>Expenses through October 27, 2020</b>	<b>October 2020</b>	<b>Year to Date</b>	
Personnel Services	8,121.40	21,174.67	
Travel - In State	441.60	513.26	
Travel - Out of State	0.00	0.00	
Books and Subscriptions	0.00	0.00	
Membership Dues	50.00	8,450.00	
Conventions, Seminars, Workshops & Committees	0.00	0.00	
Taxable Meal Allowance	0.00	0.00	
Utah Sales and Use Tax (Refundable)	0.00	0.00	
<b>Total Expenses</b>	<b>8,613.00</b>	<b>30,137.93</b>	<b><u>30,137.93</u></b>
<b>Pending Expenditures through October 27, 2020</b>			
Personnel Services	2,276.96		
Travel	0.00		
Taxable Meals	0.00		
Conventions, Seminars, Workshops & Committees	300.00		
<b>Total Pending Expenses</b>			<b><u>2,576.96</u></b>
<b>Remaining budget for FY 2021</b>			<b><u><u>135,385.11</u></u></b>

**TAB D**

Senior Judge	Court Level	Incentive Benefit	Hours Worked in 2020	Hours Worked in 2019	Hours Worked in 2018	Hours Worked in 2017	Hours Worked in 2016
Judge 1	District	No	32	68	28 - Certified July 2018	N/A	N/A
Judge 2	District	Yes	4	80	104	112	44
Judge 3	Juvenile	No	0	0	0	4	0
Judge 4	District	No	0	0	12	16	52
Judge 5	District	Yes	0	0	8	160	24
Judge 6	Appellate	Yes	0	0	0	16	32
Judge 7	Appellate	Yes	0	0	0	0	20
Judge 8	District	No	0	28	Certified Nov. 2018	N/A	N/A
Judge 9	District	No	0	16	0	12	0
Judge 10	District	No	60	88	96	0	72
Judge 11	District	Yes	20	24	12	16	0
Judge 12	District	No	16	4	0	0	0
Judge 13	District	No	0	0	0	0	0
Judge 14	District	No	8	0	60	4 - Certified in 2017	N/A
Judge 15	Juvenile	No	52 - Certified Feb. 2020	N/A	N/A	N/A	N/A
Judge 16	District	No	16	24	0	0	18
Judge 17	District	Yes	0	0	0	0	0
Judge 18	District	Yes	12	32	8	120	68
Judge 19	District	No	28	72	92	0	0
Judge 20	Juvenile	Yes	4	20	104	180	8
Judge 21	District	No	0	0	308	416	0
Judge 22	District	No	8	16	4	12	32
Judge 23	Juvenile	Yes	8	16	0	0	0
Judge 24	District	Yes	60	56	84	268	200
Judge 25	District	No	0	0	0	Certified in Dec. 2017	N/A
Judge 26	District	No	124 - Certified Feb. 2020	N/A	N/A	N/A	N/A

# TAB 3

## 4-403. Electronic and Signature Stamp Usage

## 3-104. Presiding Judges

## 3-108. Judicial Assistance

**Notes:** The proposed amendment to 4-403 authorizes judges' electronic signatures to be automatically affixed to automatic expungement orders. The proposed amendment to 3-104 makes the district court presiding judge the signing judge for all automatic expungement orders in the presiding judge's district, including both district and justice courts.

At its October meeting, Policy and Planning questioned whether district court presiding judges should be the signing judge for justice court cases. In response, Brent Johnson provided the following summary:

Brent's original proposal was to amend rule 3-108 (lines 26 and 60). Under that rule, the presiding officer of the Council can appoint a judge of a court of record to serve as a judge in any other court. District court judges assist justice courts from time to time. However, IT expressed concern with the original proposal, particularly IT's ability to track the Chief's orders and the appointed signing judge's name if/when the Chief changes it in an order. So rather than keeping it in the judicial assignment rule, Brent proposed putting it in the PJ rule. Including it in 3-104 would be much easier to track. The names could be automatically changed in the system when the PJs change.

Because authority can be granted, Brent is hopeful that this can be accomplished by rule rather than an order from the Chief, but if P&P is uncomfortable with the change to 3-104, it could go back to Brent's original proposal in 3-108.

**1 Rule 3-104. Presiding Judges.****2 Intent:**

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

**5 Applicability:**

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

**8 Statement of the Rule:****9 (1) Election and term of office.**

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

**16 (1)(B) Associate presiding judge.**

17 (1)(B)(i) In a court having more than two judges, the judges may elect one  
18 judge of the court to the office of associate presiding judge. An  
19 associate presiding judge shall be elected in the same manner and  
20 serve the same term as the presiding judge in paragraph (1)(A).  
21 (1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge  
22 shall assume the responsibilities of the presiding judge. The associate  
23 presiding judge shall perform other duties assigned by the presiding  
24 judge or by the court.

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

**29 (2) Court organization.****30 (2)(A) Court en banc.**

31 (2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including  
32 all judges of the court and the court executive, to discuss and decide  
33 court business. The presiding judge has the discretion to excuse the  
34 attendance of the court executive from court en banc meetings called  
35 for the purpose of discussing the performance of the court executive.

In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) Absence of presiding judge. When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

(3) **Administrative responsibilities and authority of presiding judge.**

(3)(A) **Generally.**

(3)(A)(i) The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of 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 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)(F)(v) The district court presiding judge will be the signing judge for all automatic expungement orders in the presiding judge's district, including district and justice courts.

(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. For purposes of this rule, "submitted to the judge" is defined as follows:

(3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;

(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or

(3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.

A case is no longer under advisement when the judge makes a decision on the issue that is under advisement or on the entire case.

Commented [KW1]: Changes back from public comment.

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

227 appropriate state level administrator and indicate the reasons why the  
228 case or issue continues to be held under advisement.  
229 (3)(L)(iv) If a case or issue is held under advisement for an additional 30 days,  
230 the state level administrator shall report that fact to the Council.  
231 (3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court  
232 and the Board for the respective court level.  
233 (3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is  
234 responsible for the development of a performance plan for the Court  
235 Commissioner serving in that court and shall prepare an evaluation of the  
236 Commissioner's performance on an annual basis. A copy of the performance  
237 plan and evaluation shall be maintained in the official personnel file in the  
238 Administrative Office.  
239 (3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with  
240 the presiding judge in the justice court of that judicial district and the justice court  
241 administrator to develop a rotation of magistrates that ensures regular availability  
242 of magistrates within the district. The rotation shall take into account each  
243 magistrate's caseload, location, and willingness to serve.

244 *Effective May 1, 2019*

**Rule 3-108. Judicial assistance.**

**Intent:**

To establish the authority, procedure and criteria for judicial assistance.

**Applicability:**

This rule shall apply to judicial assistance provided by active senior judges and judges of courts of record.

**Statement of the Rule:**

(1) Criteria for requesting assistance. Judicial assistance shall be provided only for the following reasons:

(A) to prevent the occurrence of a backlog in the court's calendar;

(B) to reduce a critical accumulated backlog;

(C) to handle a particular case involving complex issues and extensive time which would have a substantial impact on the court's calendar;

(D) to replace a sitting judge who is absent because of assignment as a tax judge, illness or to replace the judges in that location because of disqualification in a particular case;

(E) to handle essential cases when there is a vacant judicial position;

(F) to handle high priority cases during vacation periods or during attendance at education programs by the sitting judge, following every effort by that judge to adjust the calendar to minimize the need for assistance and only to handle those matters which cannot be accommodated by the other judges of the court during the absence;

(G) to provide education and training opportunities to judges of one court level in the disposition of cases in another court level; ~~and~~

(H) in district court, to handle cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration; and

(I) to handle automatic expungement cases.

(2) Criteria for transferring or assigning judges. The transfer or assignment of judges shall be based upon the following priorities:

(A) experience and familiarity with the subject matter, including, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, knowledge of the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation;

(B) active judges before active senior judges with consideration of the following:

(i) active judges from a court of equal jurisdiction in a different geographical division than the court in need, who are physically situated nearest and are most convenient to that court;

(ii) active senior judges from a court of equal jurisdiction to the court in need who are physically situated nearest and are most convenient to that court;

(iii) active judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is most closely related to that court and who are in close proximity to it;

(iv) active judges from a court of equal jurisdiction in a different geographical division than the court in need who are far removed from that court;

(v) active or active senior judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is similar to that court who are not in close proximity;

(C) availability;

(D) expenses and budget.

(3) Assignment of active judges.

(A) Any active judge of a court of record may serve temporarily as the judge of a court with equal jurisdiction in a different judicial district upon assignment by the presiding judge of the district in which the judge to be assigned normally sits or, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, assignment by the supervising tax judge with the approval of the presiding officer of the Council.

(B) Any active judge of a court of record may serve temporarily as the judge of a court with different jurisdiction in the same or a different judicial district upon assignment by the presiding officer of the Council or assignment by the state court administrator with the approval of the presiding officer of the Council.

(C) The presiding officer of the Council may appoint a district court presiding judge as the signing judge for automatic expungements in all courts within their district, including district courts and justice courts. The length of the assignment may coincide with the judge's term as presiding judge.

~~(C)~~ D) The assignment shall be made only after consideration of the judge's calendar. The assignment may be for a special or general assignment in a specific court or generally within that level of court and shall be for a specific period of time, or for the duration of a specific case. Full time assignments in excess of 30 days in a calendar year shall require the concurrence of the assigned judge. The state court administrator shall report all assignments to the Council on an annual basis.

~~(D)~~ E) Requests for the assignment of a judge shall be conveyed, through the presiding judge, to the person with authority to make the assignment under paragraphs (A) and

72 (B). A judge who is assigned temporarily to another court shall have the same powers  
73 as a judge of that court.

74 (4) Notice of assignments made under this rule shall be made in writing, a copy of which  
75 shall be sent to the state court administrator.

76 (5) Schedule of trials or court sessions. The state court administrator, under the  
77 supervision of the presiding officer of the Council, may schedule trials or court sessions  
78 and designate a judge to preside, assign judges within courts and throughout the state,  
79 reassign cases to judges, and change the county for trial of any case if no party to the  
80 litigation files timely objections to the change.



**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.

(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.~~ The electronic signature of a judge may be

automatically affixed to the following documents without the need for specific direction from the assigned judge when issued using a form approved by the Judicial Council:

(3)(A) a domestic relations injunction issued under URCP 109;

and

(3)(B) an automatic expungement order issued under Utah Code § 77-40-114.

- (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 ~~January 1, 2020~~*

# TAB 4

- 2-211. Compliance with CJA and CJC
- CJC Chpt. 12. Terminology
- Canon 2.12. Supervisory Duties
- Canon 2.3. Bias, Prejudice, Harassment
- 67-26-202. Abusive conduct complaint, investigation, administrative review process

**Notes:** Under legislation passed earlier this year, the judiciary is required to establish policies and procedures to address abusive conduct in the workplace. The Human Resources Department has recently proposed an abusive conduct policy for employees. Similar to the harassment policy there is a reference to judges, but Mr. Johnson thinks there is also a need to have more specific references on an abusive conduct policy for judges. In Brent's review of the various existing provisions, it seems like the best place for an abusive conduct policy might be rule 2-211, since that rule already addresses issues when judges violate the Code of Judicial Conduct or the Code of Judicial Administration.

There are two potential approaches. The first would be to amend rule 2-211 to specifically mention abusive conduct and the procedures to be followed. Mr. Johnson has not taken that approach. The other option is to amend the Code of Judicial Conduct to specifically include abusive conduct. There would then not be a need to specifically address abusive conduct in rule 2-211, because it would be investigated the same as any other allegation when the Code of Judicial Conduct is violated. There might, however, be a need to address the other requirements of the recent legislation that permit an employee to ask for additional review of an allegation. The rule could be amended to allow an employee to ask the Council to consider or reconsider any decisions made. An employee would always have an option to file a complaint directly with the Judicial Conduct Commission, rather than filing a complaint with the Judicial Council. There is no question that we need a policy. It is important to convey to employees that they can file complaints of abusive conduct by judges.

If the Policy and Planning Committee agrees with this approach, Mr. Johnson will proceed to the Supreme Court to determine whether they are willing to amend the Code of Judicial Conduct. If they are not willing, Mr. Johnson will bring proposed amendments to rule 2-111 that more specifically address abusive conduct back to Policy and Planning.

West's Utah Code Annotated  
Title 67. State Officers and Employees  
Chapter 26. Utah Public Employees Healthy Workplace Act  
Part 2. Abusive Conduct

U.C.A. 1953 § 67-26-202

§ 67-26-202. Abusive conduct complaint, investigation, administrative review process

Effective: July 1, 2020

Currentness

(1) An employee may file a written complaint of abusive conduct with the human resources department of the employee's employer if the complaint is against an employee of the same employer as the employee filing the complaint.

(2) If an employee files a written complaint of abusive conduct under Subsection (1), the human resources department of the employee's employer shall conduct an abusive conduct investigation.

(3)(a) Each employer that is not a state executive branch agency:

(i) shall provide the employer's employees a process for:

(A) filing an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint; and

(B) an administrative review of the findings of an abusive conduct investigation described in Subsection (2) that is substantially similar to the administrative review process described in Section 67-19a-501; and

(ii) may request assistance from the department, at the department's current consultant rate, or the office, at a reasonable rate established by the office, in developing a process described in this Subsection (3)(a).

(b) The department shall provide a process for an employee of a state executive branch agency to file an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint.

(4) The complaint described in Subsection (1) and a subsequent abusive conduct investigation are subject to:

(a) in relation to an employer other than a state executive branch agency, the administrative review process described in Subsection (3)(a); and

(b) in relation to a state executive branch agency, the office's administrative review process described in Section 67-19a-501.

**Credits**

Laws 2020, c. 155, § 9, eff. July 1, 2020.

U.C.A. 1953 § 67-26-202, UT ST § 67-26-202

Current with laws through the 2020 Sixth Special Session. Some statutes sections may be more current, see credits for details.

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**RULE 2.3**

***Bias, Prejudice, and Harassment\*, and Abusive Conduct\****

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall take reasonable measures to require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

**(E) A judge shall not engage in abusive conduct\*.**

**COMMENT**

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or

35 prejudice. A judge must avoid conduct that may reasonably be perceived  
36 as prejudiced or biased.

37 [3] Examples of sexual harassment include but are not limited to sexual  
38 advances, requests for sexual favors, and other verbal or physical conduct  
39 of a sexual nature that is unwelcome.

**RULE 2.12**

***Supervisory Duties***

**(A) A judge shall take reasonable measures to require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's fulfillment of his or her obligations under this Code.**

**(B) A judge shall not engage in abusive conduct.**

**(B C) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the timely disposition of matters before them.**

**COMMENT**

**[1]**

A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision timely administer their workloads.



**Rule 2-211. Compliance with the Code of Judicial Administration and the Code of Judicial Conduct.**

Intent:

To establish the authority of the presiding officer, the Management Committee and the Council to take corrective action in the event of non-compliance with this Code or the Code of Judicial Conduct.

Applicability:

This rule shall apply to judicial and quasi-judicial officers.

Statement of the Rule:

(1) Allegations of failure to comply with the provisions of this Code and the Code of Judicial Conduct may be submitted to the presiding officer of the Council by Council members, the chairs of the Boards, presiding judges, the court administrator, any court employee, or the Judicial Conduct Commission.

(2) The presiding officer of the Council, in consultation with the Management Committee, has the discretion to dismiss the allegations, investigate the allegations, take appropriate corrective action or submit the matter to the Council for consideration. Where corrective action is taken, the presiding officer shall report to the Council in executive session the nature of the problem and the corrective action taken. Information which identifies the person who submitted the allegation and individual against whom corrective action is taken may be omitted from the report.

(3) The Council shall convene in executive session to review those allegations of non-compliance submitted by the presiding officer pursuant to paragraph (2) and, upon a majority vote, direct dismissal of the allegations, investigation of the allegations, corrective action or referral to the Judicial Conduct Commission. Allegations of non-compliance shall be referred to the Conduct Commission only after consideration by the Council and upon a majority vote of its members.

(4) The presiding officer of the Council is empowered to implement any corrective action recommended by the executive management committee or the Council.

33 (5) If the allegations involve inappropriate behavior toward the person who  
34 submitted the allegations, the presiding judge shall notify the person  
35 whether corrective action was taken. The person may ask that any decision  
36 made by the presiding officer be reviewed by the Council.

1       **TERMINOLOGY**

2       **Each time any term listed below is used in a Rule in its defined**  
3 **sense, it is followed by an asterisk (\*).**

4       **“Abusive conduct” – means the same as defined in Utah Code §**  
5 **67-26-102(1).**

6       **“Aggregate,”** in relation to contributions for a candidate, means not only  
7 contributions in cash or in kind made directly to a candidate’s committee,  
8 but also all contributions made indirectly with the understanding that they  
9 will be used to support the retention of a candidate. See Rule 2.11.

10       **“Appropriate authority”** means the presiding judge and the authority  
11 having responsibility for initiation of disciplinary process in connection with  
12 the violation to be reported. See Rules 2.14 and 2.15.

13       **“Contribution”** means both financial and in-kind contributions, such as  
14 goods, professional or volunteer services, advertising, and other types of  
15 assistance, which, if obtained by the recipient otherwise, would require a  
16 financial expenditure. See Rules 2.11, 2.13, 3.7, 4.1, and 4.2.

17       **“De minimis,”** in the context of interests pertaining to disqualification of  
18 a judge, means an insignificant interest that could not raise a reasonable  
19 question regarding the judge’s impartiality. See Rule 2.11.

20       **“Directly solicit”** means a direct request made by a judge or a judicial  
21 candidate for financial support or in-kind services, whether made by letter,  
22 telephone, or any other means of communication. See Rule 4.2.

23       **“Domestic partners”** are persons who maintain a household and an  
24 intimate relationship, who are not legally married. See Rules 2.11, 2.13,  
25 3.13, and 3.14.

26       **“Economic interest”** means ownership of more than a de minimis legal  
27 or equitable interest. Except for situations in which the judge participates in  
28 the management of such a legal or equitable interest, or the interest could  
29 be substantially affected by the outcome of a proceeding before a judge, it  
30 does not include:

31       (1) an interest in the individual holdings within a mutual or common  
32 investment fund;

33       (2) an interest in securities held by an educational, religious, charitable,  
34 fraternal, or civic organization in which the judge or the judge’s spouse,

domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge. See Rules 1.3, 2.11, and 3.2.

**“Fiduciary”** includes relationships such as executor, administrator, trustee, personal representative, holder of a power of attorney, or guardian. See Rules 2.11, 3.2, and 3.8.

**“Harassment”** means verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. See Rule 2.3.

**“Impartial,” “impartiality,” and “impartially”** mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as presence of an objective and open mind in considering matters that come before a judge. See Canons 1, 2, and 4, and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 3.13, 4.1, and 4.2.

**“Impending matter”** is a matter that is imminent or expected to occur in the near future. See Rules 2.9, 2.10, 3.13, and 4.1.

**“Impropriety”** includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge’s independence, integrity, or impartiality. See Canon 1 and Rule 1.2.

**“Independence”** means a judge’s freedom from influences or controls other than those established by law. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, 4.1 and 4.2.

**“Integrity”** means probity, fairness, honesty, uprightness, and soundness of character. See Canon 1 and Rules 1.2, 3.1, 3.12, 3.13, 4.1, and 4.2.

**“Judicial candidate”** means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes or, where permitted, engages in solicitation or acceptance of contributions or support,

or is nominated for election or appointment to office. See Rules 2.11 and 4.1.

**“Knowingly,” “knowledge,” “known,” and “knows”** mean actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Rules 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

**“Law”** encompasses, but is not necessarily limited to, court rules, statutes, ordinances, constitutional provisions, and case law. See Rules 1.1, 2.1, 2.2, 2.6, 2.9, 3.1, 3.2, 3.4, 3.7, 3.9, 3.12, 3.13, 3.14, 4.2, and 4.3.

**“Member of the judge’s family”** means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

**“Member of a judge’s family residing in the judge’s household”** means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family who resides in the judge’s household. See Rules 2.11 and 3.13.

**“Nonpublic information”** means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute, rule, or court order or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

**“Pending matter”** is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13, and 4.1.

**“Political organization”** means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 4.2. See Rule 4.1.

**“Third degree of relationship”** includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11.

# TAB 5

## 3-413. Judicial Library Resources

**Notes:** The Judicial Council approved the proposed amendments to CJA 3-413 on an expedited basis with an effective date of August 21, 2020. Subsequently, the rule went out for a 45-day comment period. No comments were received.

**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-state~~ Court ~~A~~ 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) **Print publications.** ~~The following officials or locations are authorized to receive print publications, which shall be provided by the state court administrator, unless specifically noted below, as follows:~~ Upon request, the state court administrator will provide each district and juvenile courtroom a print publication set of the Utah Code Unannotated, and one set of the Utah Court Rules Annotated, and each appellate judge a print publication set of the Utah Code Annotated, and one set of the Utah Court Rules Annotated.

~~(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.~~

~~(2)(B)(v) Courts without a permanently sitting judge: two sets of the Utah Code Unannotated and one set of Utah Court Rules Annotated.~~

(2)(C) **Publisher's complimentary copies.** The publisher of the Pacific Reporter 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.

(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.



(2)(E) **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.

(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.

**(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).

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

(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.

(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.

Effective August 21, 2020

# TAB 6

## Appendix J. Ability-to-Pay Matrix (NEW)

**Notes:** In August 21<sup>st</sup>, the Judicial Council approved the new Ability-to-Pay Matrix for purposes of setting monetary bail. The matrix will be reviewed by the Pretrial Committee on November 5<sup>th</sup> and proposed amendments are anticipated. If amendments are made and the Pretrial Committee recommends that they be sent to Policy and Planning for consideration, I will email the matrix out to members in advance of the meeting.

# TAB 7

## Jury Summons CORIS/CARE Notices

**Notes:** The courthouse attire rule (4-411) went into effect on November 1<sup>st</sup>. The clerks of court, court services, and IT brought two things to my attention that conflict with the rule.

1. Jury Summons: Language on page 2, 4<sup>th</sup> bullet on right side of page
2. “Attire” options in CORIS/CARE calendar notices that allow courts to select or create their own instructions on courtroom attire

**Jury Summons:** I would recommend just deleting the bullet on attire entirely.

**CORIS Notices:** The attire options are modifiable by each court under Maintenance / Local / Instructions. Currently, 10 district courts have attire language in their drop-down options (justice courts haven’t been queried as of this date). IT does not recommend centrally deleting options for the entire state because the options could just be recreated. IT’s recommendation is for the language/options to be deleted locally, along with JA/clerk training not to use or recreate “attire” language or options. Some clerks of court have already deleted the options for their court locations.

I recommend that P&P ask the district clerks of court to delete options locally and train their staff. Jim Peters could ask justice court administrators and justice court clerks to do the same.

**CARE Notices:** The automated language (below) has been removed from CARE Notices of Hearing, Change of Hearing Notices, and Summons. Developers are currently searching to ensure no other CARE generated documents address attire.

“Inappropriate dress (i.e., shorts, tank tops, halters, bare feet, etc.) will result in your hearing being recalendared, and court costs may be imposed.”

**THIRD DISTRICT COURT SLC  
450 S STATE STREET RM W19  
OBSERVING COVID PRECAUTIONS  
SALT LAKE CITY UT 84114**

**JURY SUMMONS**

**YOUR JUROR NUMBER IS 63336472 REPORTING NUMBER TA0001**

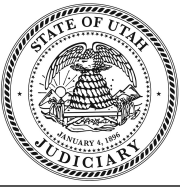
**MARGARET ELISABETH JACOBS  
8278 S 535 E  
SANDY UT 84070**

**THIRD DISTRICT COURT SLC  
450 S STATE STREET RM W19  
OBSERVING COVID PRECAUTIONS  
SALT LAKE CITY UT 84114**

**JURY SUMMONS**

**YOUR JUROR NUMBER IS 15977718 REPORTING NUMBER TA0002**

**JAY W HARRIS  
4971 S 1130 W  
TAYLORSVILLE UT 84123**



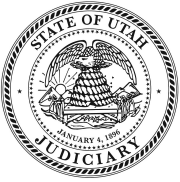
## Summons for Jury Service

The District Court summons you for jury service. Your term is from May 14, 2019 through May 17, 2019. Please follow these instructions carefully. **Bring this document with you to receive your jury fee.**

1. Starting Friday May 10, 2019, please call (801) 238-7175 option #1 after 05:00 pm. Have your juror number and reporting number handy and be ready to write down the instructions.
  2. The recorded message will give you instructions for your reporting number. You will be told either to come to the courthouse or to call back the next evening. The phone line may be busy, so keep calling until you get the information.
  3. If you are instructed to appear:
    - Go to the courthouse at 450 S State Street Rm W19 Observing Covid Precautions Salt Lake City Utah 84114. Please be early or on time, but do not be late.
    - If you have a disability that requires accommodation - or if you have an emergency - contact the jury clerk at (801) 238-7175.
    - Expect to wait. Consider bringing a book or magazine to pass the time.
    - If you live more than 50 miles from the courthouse, you may be reimbursed for mileage. If you provide proof of payment, you may be reimbursed for parking or public transportation costs.
- Tell your employer that you have been called for jury service. (Your employer cannot threaten your job because you reported for jury service.) The clerk can give you a letter verifying your jury service.
  - Do not bring children or other dependents with you. (The court does not provide child care.)
  - You will have to go through airport-type security, so do not bring any guns, knives, scissors, or anything that might be considered a weapon.
  - Dress appropriately. (Business attire is best.) Do not wear shorts, t-shirts, tank tops, halter tops, mini-skirts, or other casual clothes.
  - No outside food or drink will be allowed in the courtroom. If you have special dietary concerns, please contact the court in advance.
  - **Bring this document with you to receive your jury fee.**

If you do not appear for jury duty as instructed, you may be in contempt of court and can be fined up to \$1,000 and sent to jail for up to 30 days (Utah Code Section 78B-1-115).

More jury information is available on the court's website at [www.utcourts.gov/juryinformation](http://www.utcourts.gov/juryinformation).



## Summons for Jury Service

The District Court summons you for jury service. Your term is from May 14, 2019 through May 17, 2019. Please follow these instructions carefully. **Bring this document with you to receive your jury fee.**

1. Starting Friday May 10, 2019, please call (801) 238-7175 option #1 after 05:00 pm. Have your juror number and reporting number handy and be ready to write down the instructions.
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  3. If you are instructed to appear:
    - Go to the courthouse at 450 S State Street Rm W19 Observing Covid Precautions Salt Lake City Utah 84114. Please be early or on time, but do not be late.
    - If you have a disability that requires accommodation - or if you have an emergency - contact the jury clerk at (801) 238-7175.
    - Expect to wait. Consider bringing a book or magazine to pass the time.
    - If you live more than 50 miles from the courthouse, you may be reimbursed for mileage. If you provide proof of payment, you may be reimbursed for parking or public transportation costs.
- Tell your employer that you have been called for jury service. (Your employer cannot threaten your job because you reported for jury service.) The clerk can give you a letter verifying your jury service.
  - Do not bring children or other dependents with you. (The court does not provide child care.)
  - You will have to go through airport-type security, so do not bring any guns, knives, scissors, or anything that might be considered a weapon.
  - Dress appropriately. (Business attire is best.) Do not wear shorts, t-shirts, tank tops, halter tops, mini-skirts, or other casual clothes.
  - No outside food or drink will be allowed in the courtroom. If you have special dietary concerns, please contact the court in advance.
  - **Bring this document with you to receive your jury fee.**

If you do not appear for jury duty as instructed, you may be in contempt of court and can be fined up to \$1,000 and sent to jail for up to 30 days (Utah Code Section 78B-1-115).

## CORIS schedule event screen:

If the 'Notice Instructions' is selected, this screen appears, allowing staff to select a pre-defined instruction (so they don't have to type it), or they could add a 'free form' instruction.

CORIS Maintenance screen for each local court to create predefined instructions to be selectable in the Notice Instructions screen

Following are examples of notices without and with the predefined Instructions.

3RD DISTRICT COURT  
SALT LAKE COUNTY, STATE OF UTAH

---

DANIEL C RICHARDSON	:	NOTICE OF
Plaintiff,	:	IMMEDIATE OCCUPANCY
	:	
VS.	:	Case No: 200904170 EV
NICHOLE RAEANN IBARRA	:	Judge: JUDGE COLLECTION
Defendant.	:	Date: July 10, 2020

---

IMMEDIATE OCCUPANCY is scheduled.

Date: 07/23/2020

Time: 01:00 p.m.

Location: THIRD FLOOR - S34

THIRD DISTRICT COURT

450 SOUTH STATE STREET

SALT LAKE CITY, UT 84111-1860

Before Judge: JUDGE COLLECTION

\* This hearing will be held telephonically. Send an email request to 3rdparkerteam@utcourts.gov for the telephone number and ID number. Please send your request a day prior to the hearing date. If you cannot access a telephone you can appear in person.

\* If you do not appear by telephone or in person as scheduled, an Order of Restitution will be signed evicting you from your home or property and a judgment may be entered against you.

Date: 07/10/2020

/s/ KAPPI SMITH

Signature

\* The court will provide an interpreter upon request. If you need an interpreter, please notify the court at (801)238-7300 five days before the hearing.

\* El tribunal proveerá un intérprete si lo solicita. Si usted necesita un intérprete, por favor notifique al tribunal llamando al número (801)238-7300 cinco días antes de la audiencia.

Individuals needing special accommodations (including auxiliary communicative aids and services) should call the court at (801)238-7500 three days prior to the hearing. For TTY service, call Utah Relay at 800-346-4128.



Case No: 200904170 Date: July 10, 2020

---

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 200904170 by the method and on the date specified.

EMAIL: NICHOLE RAEANN IBARRA caliluv81@outlook.com

EMAIL: DANIEL C RICHARDSON workoutman@digis.net

EMAIL: HEATHER LESTER heather.lester@utahca.org

EMAIL: JEFF DAYBELL jeff.daybell@utahbar.org

Date: 07/10/2020

/s/ KAPPI SMITH

Signature

SECOND DISTRICT COURT- LAYTON  
DAVIS COUNTY, STATE OF UTAH

---

LAYTON CITY : NOTICE OF  
Plaintiff, : ARRAIGNMENT  
VS. :  
DANIEL LEE WALTON : Case No: 205601335 TC  
 : Judge: ROTATION JUDGE  
Defendant. : Date: July 9, 2020

---

ARRAIGNMENT is scheduled.

Date: 11/17/2020

Time: 09:01 a.m.

Location: Courtroom #1

JUDICIAL BUILDING

425 NORTH WASATCH DRIVE

LAYTON, UT 84041

Before Judge: ROTATION JUDGE

\*\* APPROPRIATE ATTIRE IS REQUIRED FOR COURT. IF YOU SHOW UP  
INAPPROPRIATELY DRESSED, YOU MAY BE REQUIRED TO RETURN HOME TO  
CHANGE. - NO SHORTS, TANK TOPS, BARE MIDRIFTS, ETC. \*\*

IF YOU FAIL TO APPEAR AT THIS HEARING, A BENCH WARRANT MAY BE  
ISSUED FOR YOUR ARREST.

Date: 07/09/2020

/s/ REBECCA STONE

Signature

\* The court will provide an interpreter upon request. If you  
need an interpreter, please notify the court at (801)444-4300  
five days before the hearing.

\* El tribunal proveerá un intérprete si lo solicita. Si usted  
necesita un intérprete, por favor notifique al tribunal llamando  
al número (801)444-4300 cinco días antes de la audiencia.

Individuals needing special accommodations (including auxiliary  
communicative aids and services) should call the court at  
(801)444-4330 three days prior to the hearing. For TTY service,  
call Utah Relay at 800-346-4128.

Case No: 205601335 Date: July 09, 2020

---

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 205601335 by the method and on the date specified.

MAIL: DANIEL LEE WALTON 680 N MAIN ST #E17 KAYSVILLE, UT 84037

EMAIL: LAYTON CITY LegalDept@laytoncity.org

Date: 07/09/2020

/s/ REBECCA STONE

Signature

# TAB 8

## 3-101. Judicial Performance Standards

**Notes:** The Board of District Court Judges (BDCJ) unanimously approved the modification of Rule 3-101 with alternative paragraph (6). JPEC does not support either paragraph (6) as circulated for comment, or alternative (6) (see attached memo from JPEC). JPEC did not take issue with the clarifying amendments of paragraph (2).

JPEC presented to Policy and Planning at its October meeting, but Judge Johnson was unable to attend. An email from Judge Johnson summarizing the BDCJ's position is included in the packet.

The following individuals will present to Policy and Planning on this issue:

- Judge Christine Johnson
- Judge Barry Lawrence
- JPEC:
  - Dr. Jennifer Yim
  - Justice Christine Durham
  - Bridget Romano

**Rule 3-101. Judicial performance standards.****Intent**

~~To establish standards of performance for application by the Judicial Performance Evaluation Commission. To establish performance standards upon which the Judicial Council will certify judicial compliance to the Judicial Performance Evaluation Commission ("JPEC").~~

**Applicability**

This rule applies to all justices and judges of the courts of record and not of record.

**Statement of the Rule****(1) Certification of performance standards.**

~~(1)(A) The Judicial Council will certify to JPEC judicial compliance with the following performance standards: cases under advisement, education, and physical and mental competence.~~

~~(1)(B) The Judicial Council will transmit its certification to JPEC by the deadline established in the Utah Administrative Code.~~

~~(1)(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 judge for final determination. For purposes of this rule, "submitted to the judge" or "submission" is the last of the following:~~

~~(2)(A) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;~~

~~(2)(B) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or~~

~~(2)(C) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.~~

**(3) Satisfactory Performance by a justice or judge.**

~~(3)(A) Supreme Court justice. A justice of the Supreme Court demonstrates satisfactory performance by circulating not 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.~~

~~(3)(B) Court of Appeals judge. A judge of the Court of Appeals demonstrates satisfactory performance by:~~

~~(23)(B)(i) circulating not 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~~

~~(23)(B)(ii) achieving a final average time to circulation of a principal opinion of not more than 120 days after submission.~~

~~(23)(C) Trial court judge. A trial court judge demonstrates satisfactory performance by holding:~~

(23)(C)(i) not more than an average of three cases per calendar year under advisement more than two months after submission with no more than half of the maximum exceptional cases in any one calendar year; and

(23)(C)(ii) no case under advisement more than six months after submission.

(3)(C)(iii) A case is no longer under advisement when the trial court judge makes a decision on the issue that is under advisement or on the entire case.

(34) **Education standard.** Satisfactory performance is established if the judge annually obtains 30 hours of judicial education subject to the availability of in-state education programs.

(45) **Physical and mental competence.** Satisfactory performance is established if the response of the judge 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.

(6) **Judicial Council discretion.** The Judicial Council has discretion to find that a judge or justice is otherwise compliant with judicial performance standards when the judge or justice has failed to comply with paragraphs (2) or (3) for reasons beyond the judge's or justice's personal control, or for other good cause as determined by the Judicial Council. The Judicial Council shall make a public record of its findings.

Alternative: <sup>[P]</sup><sub>[SEP]</sub>

(6) Judicial Council discretion. <sup>[P]</sup><sub>[SEP]</sub>

(6)(a) The Judicial Council has discretion to find that a judge or justice is not compliant with judicial performance standards if it receives credible information challenging the judge's or justice's compliance.

(6)(b) The Judicial Council has discretion to find that a judge or justice is still compliant with judicial performance standards when the judge or justice fails to comply with paragraphs (2) or (3) for reasons beyond the judge's or justice's personal control, such as due to temporary disability or system failure.

(6)(c) The Judicial Council shall make a public record of its findings and provide those findings and any supporting materials to JPEC.

**Commented [NS1]:** Definition requested by the Board of District Court Judges.

---

## Case Under Advisement Rule

---

Judge Derek Pullan <dpullan@utcourts.gov>

Tue, Oct 6, 2020 at 6:07 PM

To: Keisa Williams <keisaw@utcourts.gov>

Good evening Keisa. Could you forward this email from Christine Johnson to each member of Policy and Planning and to Dr. Yim for further distribution to JPEC's members?  
Thank you

----- Forwarded message -----

From: **Judge Christine Johnson** <csjohnson@utcourts.gov>

Date: Tue, Oct 6, 2020 at 3:41 PM

Subject: Re: Case Under Advisement Rule

To: Judge Derek Pullan <dpullan@utcourts.gov>

Derek:

Thanks for the opportunity to respond by email for the Board's position regarding the proposed amendment to Rule 3-101. I regret that my evidentiary hearing went longer than anticipated--I would have preferred to attend the meeting as planned. This email will have to do!

The current version of the rule provides (emphasis mine):

(1) 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 judge* for final determination.

The Board's concern is that this paragraph does not define what "submitted to the judge" actually means. As a group, we have understood this term to mean the point in which the assigned judge is made aware that an issue has been submitted for decision. Logically, the assigned judge cannot take action on an issue until that time. However, the rule does not say that, leaving room for some to interpret the "submitted to the judge" phrase to mean the date in which a "request to submit" or "notice to submit" is filed by a party. I believe that many attorneys take this view. After all, if they have filed a "notice to submit," hasn't the issue been submitted to the judge?

The problem with this interpretation, as the Board discussed, was that the assigned judge is not automatically informed when a party files such a request/notice. Other action must take place, such as forwarding that notice electronically, or physically placing the paper in the judge's inbox. Until that action has taken place, the assigned judge has no way of knowing when a notice/request to submit has been filed. Many of us have experienced this problem first-hand, as a clerk presents us with a notice that was filed weeks ago but was somehow lost. These instances are (thankfully) not common, but human error can always be injected into processes that involve human employees (including judges, of course). As a personal observation, I would note that this issue is even more concerning now, when so many court staff are working from home. Since the pandemic has kept us from the office, I have noticed that it generally takes a few more days for notices/requests to submit to reach me. This is anecdotal, of course, but it has impressed upon me how important it is that judges be evaluated fairly on this issue.

Ultimately, there is a certain amount of irony in having judges--who are charged with interpreting and applying the law--have their performance evaluated based upon a rule that is ambiguous and subject to inconsistent applications. While the Board was not aware of any judge falling victim to a mis-application of Rule 3-101 *yet*, as long as the rule is not properly defined, there is a risk that this will occur in future. It seems prudent then, to use a bit of foresight and make appropriate amendments now so that the rule can reflect what we have long understood it to mean. Accordingly, the proposed amendment would define "submitted to the judge" as the later of:

- (2)(A) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;
- (2)(B) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or

(2)(C) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.

In summary, this proposed amendment defines "submitted to the judge" in the manner which we have long understood it, and it removes the ambiguity to clarify exactly when the assigned judge's time to issue a decision begins to run. I think this amendment will be helpful in the performance evaluation of judges, and also instructive to those attorneys who have not recognized that the filing of a document on their side does not automatically trigger a response on the other. A bit of understanding often goes a long way.

In addition, the proposed amendment includes the following new paragraph:

(6) Judicial Council discretion. The Judicial Council has discretion to find that a judge or justice is otherwise compliant with judicial performance standards when the judge or justice has failed to comply with [the cases under advisement standard] for reasons beyond the judge's or justice's personal control, or for other good cause as determined by the Judicial Council. The Judicial Council shall make a public record of its findings.

The Board believed that this provision was important because it acts as a "catch-all" clause that allows the Council to consider specific facts and circumstances that fall outside of what the drafters of the rule contemplated. Such catch-all provisions, as you know, are very common in other rules as well as in legislative enactments. These provisions are so common because they recognize that none of us, however thoughtful or prescient we might be, can predict all of the facts which might be relevant at some future time. The Board strongly believed it was important to allow the Council to exercise some discretion when such unforeseen circumstances arise. Once again, I see a bit of irony in the idea that there should be no discretion in the evaluation of judges when we are asked to exercise our discretion on our assigned cases every day. The exercise of human discretion, as opposed to a simple mechanical application of rule, is such an important part of justice.

In the Board's prior discussion with JPEC, we recognized there was some opposition to this provision because it was one-sided. Meaning, it allowed the Council discretion to find a judge or justice to be *compliant* despite a violation of the cases under advisement standard, but did not leave room for the Council to find a judge or justice to be *non-compliant*, even if he or she had otherwise followed the rule. The Board had no opposition to alternative language which would allow the Council discretion both ways. My understanding is that JPEC disapproved of that proposed amendment, although the Board maintains that it satisfies any perception that the proposed rule change is biased. The alternative paragraph (6) reads:

(6) Judicial Council discretion.

(6)(a) The Judicial Council has discretion to find that a judge or justice is not compliant with judicial performance standards if it receives credible information challenging the judge's or justice's compliance.

(6)(b) The Judicial Council has discretion to find that a judge or justice is still compliant with judicial performance standards when the judge or justice has failed to comply with [the cases under advisement standard] for reasons beyond the judge's or justice's personal control, such as due to temporary disability or system failure.

(6)(c) The Judicial Council shall make a public record of its findings and provide those findings and any supporting materials to JPEC.

In summary, the Board recognizes that there may well be unimagined circumstances that should be considered to allow the Council to either disqualify or qualify a judge. Accordingly, we support either version of paragraph (6). We maintain that allowing the Council some discretion to look at the "big picture" in evaluating judges for retention is important and we recommend inclusion of paragraph (6).

If you have any other questions, please do not hesitate to inquire. I am happy to speak to you, or any other member of policy and planning, should there be a need.

Best,  
Christine

[Quoted text hidden]



### **3-101: Pullan draft proposal**

(4) Case Under Advisement Compliance. A judge or justice shall decide all matters submitted for decision within the applicable time period prescribed by this rule, unless circumstances causing a delayed decision are beyond the judge's or justice's personal control.

(5)(B). Education Hour Compliance. A judge or justice shall obtain the number of education hours prescribed by this rule, unless circumstances preventing the judge from doing so are beyond the judge's or justice's personal control.

(6) Judicial Council Certification. As to the performance standards in this Rule, the Judicial Council shall certify to JPEC that each judge or justice standing for retention is:

(A) Compliant;

(B) Compliant with explanation, meaning that the judge or justice has certified his or her own compliance but the Judicial Council has received credible information inconsistent with that certification. The Judicial Council's explanation and supporting materials shall be made public and forwarded to JPEC;

(C) Non-compliant; or

(D) Non-compliant with explanation, meaning that the Judicial Council has received credible information that non-compliance was due to circumstances beyond the personal control of the judge or justice. The Judicial Council's explanation and supporting materials shall be made public and forwarded to JPEC.

# TAB 9

## Human Resources Policies and Procedures

**NOTES:** The Judicial Council requested HR policies undergo a head-to-toe revamp. The HR Policy Review Committee (HRPRC) recognized early on in this process that many existing administrative HR rules in the Executive Branch also apply to the Judicial Branch due to utilization of the same payroll system, HR system, and benefits providers.

The structure of the draft policies is an almost exact mirror of the structure used in [DHRM Rules](#). The content itself is not an exact mirror, but the HRPRC's adaptation often borrows heavily from language in DHRM Rules when applicable. If you compare these drafts to what you find in DHRM Rules, you'll easily be able to see which sections of these drafts would benefit from a closer look as opposed to sections that already contain heavily vetted, effective language.

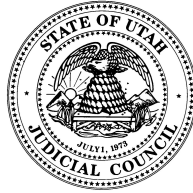
When you encounter content in these drafts that do not have comparable language in DHRM Rules, that content will have come from (1) the [HR policies](#) already in effect for Judicial Branch employees, or (2) the supplemental HR policies Mr. Olsen found most effective in his experience with other state agencies.

The one exception is HR17 "Grievance and Appeal." Our currently published policy ([Section 620](#)) has many gaps that leave too many unanswered questions. But because Executive Branch agencies, unlike the Judicial Branch, are subject to the separate Career Service Review Office, DHRM rules were not helpful. Instead, by using materials from [the Career Service Review Office website](#) and receiving excellent supplemental help and language input from Brent, Mr. Olsen drafted HR17 to tailor to our specific needs.

The proposed policies were emailed to P&P members for individual review, with comments and suggested edits to be provided to Bart Olsen via email in preparation for the November 6th meeting.

See the attached memo for a summary of the revisions.

Links to the draft HR Policy Manual: [Google Docs format](#) and in [PDF format](#).



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

September 24, 2020

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

## MEMORANDUM

**TO:** Judge Derek Pullan, Chair, Policy & Planning Committee  
Keisa Williams, Staff, Policy & Planning Committee  
Policy & Planning Committee Members

**FROM:** Bart Olsen, Director of Human Resources, Administrative Office

**RE:** Revised Human Resource Policy Manual for Approval

---

The purpose of this memorandum is to accompany proposed human resource policy updates with important contextual information with a request for the Policy & Planning Committee. The request is that members of the committee review the attached package of proposed policy and submit feedback to me for discussion by the November 6th Policy & Planning meeting.

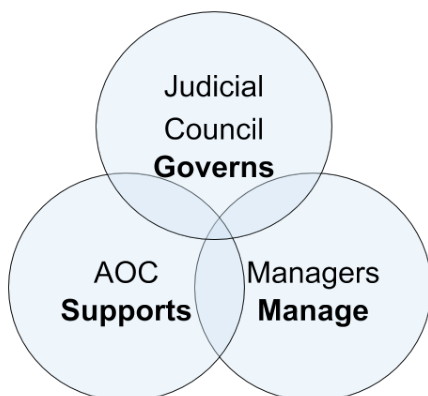
### Background

The Judicial Council asked that the Human Resources Policy Review Committee (HRPRC) focus its efforts and energy on a head-to-toe examination and overhaul of the current human resource policy manual. The HRPRC's first task was to recommend significant changes to policy 550 governing sexual harassment. Those recommendations have been approved by Policy & Planning and the Judicial Council.

### Context of Governance Structure

The Office of the State Court Administrator and General Counsel gave significant emphasis to the governance structure of Utah's judiciary when I came onboard. This lens was extremely helpful to me, understanding that (1) the Judicial Council is the governing body for the branch, (2) the Administrative Office (including the Human Resource Department) provides support, and (3) Managers manage the vast operations (including the personnel) of the branch.

**The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.**



This context helped me understand that the Council (governing body) was asking Human Resources (area of support in the Administrative Office) to work with the HRPrc (comprised deliberately of judiciary managers at multiple levels) to advance the mission of the judiciary by recommending as many improvements to human resource policies as possible. Therefore, the main purpose of the HRPrc effort would logically be to strengthen the effectiveness of judicial officers in delivering justice via the effectiveness of staff and managers in the courthouses. [UCJA Rule 3-402\(5\)](#)<sup>1</sup> establishes both the membership and role of the HRPrc in making proposals to policy consistent with this governance structure.

The work of the HRPrc over the vast majority of the past year has been consistently focused on and measuring against this objective: to give the Judicial Council a full-package recommendation for human resource policies *most likely* to strengthen the effectiveness of judicial officers (via staff and management) in delivering justice/advancing the mission of the judiciary.

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<sup>1</sup> (5)(A) There is established a human resources policy and procedure review committee responsible for making and reviewing proposals for repealing human resources policies and procedures and promulgating new and amended human resources policies and procedures. The committee shall consist of the following voting members, which, where indicated, must be selected by majority vote of the entire body of the specified group:

(5)(A)(i) the director of human resources;

(5)(A)(ii) two trial court executives, selected by the trial court executives;

(5)(A)(iii) three clerks of court (one juvenile, one district, and one appellate), selected by the clerks of court;

(5)(A)(iv) a chief probation officer from the juvenile court, selected by the chief probation officers;  
and

(5)(A)(v) a case manager, selected by the clerks of court.

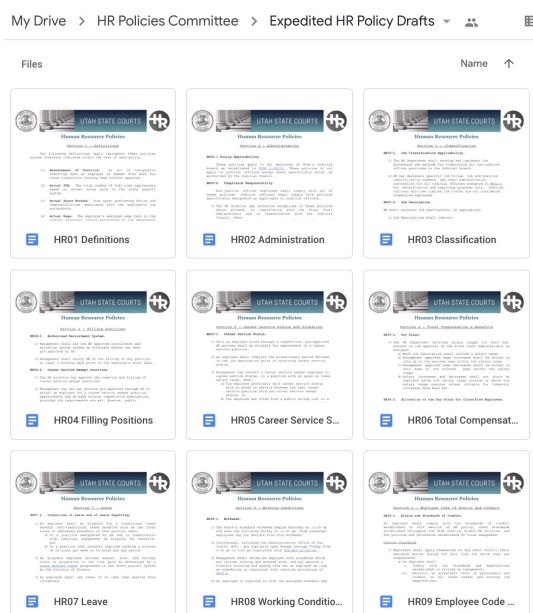
(5)(B) The chair of the committee shall be designated by the state court administrator. Other members of the committee shall be appointed in a manner consistent with Rule 1-205. The department of human resources shall provide necessary support to the committee. Other non-voting members may be assigned by the Policy and Planning Committee, as necessary to assist the committee.

(5)(C) Pursuant to Rule 1-204, new and amended policies and procedures, or repeals, recommended by the committee shall be reviewed by the Policy and Planning Committee prior to being submitted by the Policy and Planning Committee to the Judicial Council.

## Approach

It became apparent quite early in the process that a piecemeal approach in a head-to-toe policy project would prove frustrating at best to the HRPRC, Policy & Planning, and the Judicial Council. The HRPRC considered, for example, the ineffectiveness of recommending

significant changes to our section of policy governing compensation with an emphasis on performance over tenure. Doing so without simultaneously recommending updates to a few terms in the definitions section and in the employee development section governing performance management would be inherently frustrating. Similarly, recommending changes to improve the performance management section without accompanying proposals for teleworking would result in confusion and frustration. A piecemeal approach could also easily catapult into a process of multiple revisits to sections of policy already approved previously without more broad context.



After discussing such concerns with the Chair, a proposal to use a more holistic approach for this one-time project was approved by this Committee.

The HRPRC has completed the project targeting delivery of a full-package revision of HR Policy to this Committee by October 2020. Attached are all 17 sections comprising that full package. The HRPRC now advances it as a proposal to Policy & Planning for review and approval. Following is a high-level summary of those recommendations.

## Summary Recommendations

The HRPRC recommends a preservation of some current policies, an adaptation of some executive branch policies, and additions of other policies to expand options and provide better guidance to management and staff. Below are some highlights.

### Preservation of Current Policies

The HRPRC recommends that the judiciary preserve most of the human resource policy language recently modified and approved by the Judicial Council, such as those found in Workplace Harassment and Professional Dress/Appearance. Thus, the language of those policies is found in this package largely untouched.

This package also retains language from other effective and valuable human resource policies currently published, such as the reciprocity agreement between the Exec Branch and the Judicial Branch for transferring employees, the exercise release policy, and several leave of absence policies.

### Adoption from DHRM Rules

The attached policies recommended by the HRPRC include the adoption of several policies found in the Executive Branch Department of Human Resource Management (DHRM) rules that explain the administration of State Finance (payroll) procedures, PEHP benefits, and URS benefits, because (1) their administration is identical across branches of government, and (2) current judicial branch policies often leave out such explanations of administration, resulting in confusion and widespread misunderstandings.

Other general human resource policies from DHRM rules are included in the recommended draft if vetted by the HRPRC and found to be beneficial if adopted by the judiciary. Reasoning behind the HRPRC's recommendation to adopt those policies contemplate the heavy and frequent vetting process for DHRM's rules including input from:

1. The Employment Law section of the Attorney General's Office
2. Attorneys at State Risk Management, some of whom are assigned to the Judicial Branch for Risk Management purposes
3. DHRM's Employment Law attorneys
4. Exec Branch Agency General Counsel Offices

Many of these draft policies adapt language from DHRM rules to be applicable to the judiciary. They expand options and provide better guidance to management and staff alike in areas such as career service status conversions, education assistance, and grievance/appeal procedures for career service employees.

### Alignment with Current Legislation

New policies are advanced for approval in this draft to support recently passed legislation in Utah, such as abusive conduct prevention, postpartum recovery leave, and offenses against public property.

Other verbiage updates are advanced for the Committee's approval for alignment/consistency with current legislation, including protected classes cited under workplace harassment, procedures under the Uniformed Services Employment & Reemployment Act (USERRA), and procedures for the interactive process under the Americans with Disabilities Act (ADA).

### Other Recommendations

A few additional policies found only in specific state agencies are also among those recommended for inclusion in the attached draft. They are only included if they are long-standing and effective policies for those agencies. Examples include a policy for sick leave bank/sick leave assistance, teleworking, performance based compensation, etc.

This draft also incorporates other internal suggestions from Court Executives, Clerks of Court, Chief Probation Officers, and HRPRC members. Suggestions that were vetted and approved by the HRPRC include provisions on BCI background checks, elimination of a cap of 11% salary increase on an internal promotion, removal of a provision allowing removal of historical documents from a personnel file, etc.

### **Birds-eye View Content Comparison**

The table below provides a high-level comparison of the content in the HR Policy Manual published today and the proposed manual from the HRPRC.

<b>Current</b>	<b>New</b>
9 sections	17 sections
57 terms defined	135 terms defined
36,263 total words	39,133 total words
Mixture of relevant and dated guidance for staff and management on personnel matters	Completely relevant and current guidance for staff and management on personnel matters
Answers to some employment related questions but required supplementation from other sources is often needed	Robust guidance, support, and locatable answers to most employment related questions self-contained in policy
Somewhat searchable content	100% searchable content

This package represents the best possible product your relatively new Director of Human Resources with the HRPRC could provide to you around the Director's one-year mark. Full disclosure: it is far from perfect. However, even if approved entirely as-is today, the HRPRC believes it would be a major improvement from the current product. The human resources team here wants to better support both management and staff in their efforts to provide judicial officers what they need to most effectively deliver justice to the people. This is not an impossible task with current HR policy nor with anything on the spectrum of middle ground between current and proposed. But the proposal does represent the best possible scenario today, from the perspective of the HRPRC, to advance the mission of the Courts.

### **Functionality Comparison**

The images below provide a glimpse into functionality improvements such as embedded navigation content tables, hyperlinks to cited internal and external policies, and hyperlinks to applicable code citations. The improvements are illustrated by comparing an image of a current policy section to an image of a proposed policy section.

## Current:

[Close Window](#)

### Human Resource Policy

#### CODE OF PERSONAL CONDUCT 500

##### PURPOSE

Public employment in the court system is a public trust justified by the confidence that the citizenry places in the integrity of officers and employees of the judicial branch. Judicial employees should participate in establishing, maintaining, and enforcing, and should personally observe high standards of conduct in order to preserve the integrity and independence of the judiciary. This policy should be construed and applied to further that objective.

##### SCOPE

This policy establishes standards of conduct expected of court employees. It addresses the general performance of duties, abuse of position, confidentiality, conflict of interest, outside interests and secondary employment.

This policy applies to all court employees.

##### 15. Friends and Family at Work

15.1 Friends and family members of employees shall not remain in the workplace for extended visits. Management may grant temporary exceptions in unusual circumstances, provided their presence does not interfere with the work of employees.

15.2 Employees shall not use their court access privileges to allow family or friends to circumvent the existing security/weapon screening process.

15.3 Employees shall not allow access to secure areas of the courthouse by family members or friends with cases pending before the courts.

##### 16. Court Security

16.1 Employees shall be familiar and comply with local court security plans.

16.2 Employees shall comply with all directives from court security officers, including the court security director.

16.3 Employees, except those identified in CJA 3-414, may not possess weapons in courthouses, probation offices, other buildings used for employee work spaces, off premises court-sponsored meetings or conference sessions, and state vehicles. This does not include employee parking areas.

16.4 Possession includes on the person and in areas within the immediate control of the employee.

16.5 An employee, except those identified in CJA 3-414, who has a concealed weapons permit is not excused from complying with these policies.

## New:

#### HR09-1. Ethics and Standard...

##### General Standards

##### Performance of Duties

##### Abuse of Position

##### Confidentiality

##### Driver Safety

##### Friends and Family at Work

##### Weapons and Court Security

##### Professional Appearance

#### HR09-2. Secondary Employm...

#### HR09-3. Conflict of Interest.

#### HR09-4. Political Activity.

#### HR09-5. Employee Reporting ...

action in accordance with [HR10-2](#), [HR11](#), and [HR14](#).

a) Management may decline to defend and indemnify an employee found violating this policy, in accordance with [UCA §63G-7-202](#) of the Utah Governmental Immunity Act.

4) An employee may not drive a state vehicle or any other vehicle, on state time, while under the influence of alcohol, non-prescribed controlled substances, or any controlled substances known to impair driving ability.

a) An employee who violates this rule shall be subject to administrative action under [HR10-2](#), [HR11](#), and [HR14](#).

b) Management may decline to defend or indemnify an employee who violates this policy, according to [UCA §63G-7-202\(3\)\(c\)\(ii\)](#) of the Utah Governmental Immunity Act.

5) An employee shall provide the HR Department a current personal mailing address.

a) The employee shall notify the HR Department in writing of any change in address.

## Built-in “Fail-safe” Provisions

At the end of each section in this proposal is a provision allowing the HR Director in consultation with the State Court Administrator to grant exceptions to any policy and must promptly report exceptions to the Judicial Council.

Additionally, the HRP RC remains active in spite of completing a one-time large project of policy revision. Consistent with Rule 3-402(5), the committee would continue to review policy and would continue to make recommendations to the Committee not only in response to any policy exceptions made but also as business needs evolve.



Further, the HRPRC plans to consider changes made to the Executive Branch policies adopted in this proposal. DHRM already has a long-standing cadence of full review at least on an annual basis and their meetings to consider changes are public. As a member of the HRPRC and a networking partner with DHRM representatives, the HR Director can hear details of the discussion during DHRM's annual policy reviews and bring back those discussions to the HRPRC to consider proposing similar changes if relevant to the Judicial Branch.

### **Training**

The HRPRC recommends a requirement from the Judicial Council that approved policy changes be accompanied by mandatory training provided by HR with some participation in training delivery by members of the HRPRC. Training may be delivered in-person but should also be available online to everyone. It is recommended the policy should not be made effective until after training is accessible online.