

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

February 5, 2021 – 12:00 p.m. to 3:00 p.m.

Webex

12:00	Welcome and Approval of Minutes	Action	Tab 1	Judge Pullan
12:05	Proposed Grant Policies and Procedures	Discussion/ Action	Tab 2	Jordan Murray Judge Noonan
12:25	<u>Rules back from Public Comment:</u> <ul style="list-style-type: none"> CJA 3-101. Judicial Performance Standards CJA 3-108. Judicial Assistance 	Action	Tab 3	Keisa Williams
12:35	CJA 4-206. Exhibits	Discussion/ Action	Tab 4	Loni Page Chris Palmer
12:45	HR Policies <ul style="list-style-type: none"> HR 1-5 – Judge Pullan HR 6-7 – Judge Cannell / Judge Heward HR 8-9 – Rob Rice HR 10-14 – Judge Connors HR 15-17 – Judge Chin 	Action	Tab 5	Bart Olsen
3:00	Adjourn			

2021 Meetings:

March 5, 2021

April 2, 2021

May 7, 2021 (all day)

June 4, 2021

July 2, 2021 (reschedule)

August 6, 2021

September 3, 2021

October 1, 2021

November 5, 2021 (all day)

December 3, 2021

TAB 1

Minutes

January 8, 2021

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

Webex video conferencing
January 8, 2021: 12 pm -2 pm

DRAFT

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Derek Pullan, <i>Chair</i>	•		Paul Barron
Judge Brian Cannell	•		Bart Olsen
Judge Samuel Chiara	•		Jeremy Marsh
Judge David Connors	•		Kim Zimmerman
Judge Michelle Heward	•		Jody Thenot
Mr. Rob Rice	•		Jim Peters
			STAFF:
			Keisa Williams
			Minhvan Brimhall

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed the committee to the meeting. The committee considered the minutes from the December 4, 2020 meeting. Judge Connors moved to approve the minutes as drafted. Mr. Rice seconded the motion and it passed unanimously.

(2) Rules back from public comment:

- CJA 4-202.02. Records Classification
- CJA 4-403. Electronic signature and signature stamp

Ms. Williams: Rules 4-202.02 and 4-403 are back from public comment. There were no comments on rule 4-403. We received one comment on rule 4-202.02. Currently, affidavits of indigency are private records. The proposed language would cover both affidavits of indigency and the two financial data elements now received by the AOC through the electronic probable cause system for use by judges in determining an individual's ability-to-pay a monetary bail amount. Those fields, gross household income and number of dependents, determine where an individual falls on the poverty guidelines. The comment relates to concerns about making more government records private. I do not recommend any changes based on the comment.

Judge Pullan: Each time a decision is made regarding indigency and the appointment of counsel, public funds will be expended. There may be public interest in those decisions. For example, how would the public know if we were over- or under-appointing counsel? How would the public hold anyone to account without access to that information? I think that's a fair question. "Private" is the most restrictive classification. Would "protected" be sufficient? At the same time, we don't want to chill someone's 6th Amendment right. If they know their personal financial information will become public, they may not request counsel.

Judge Connors: I don't think the comment requires a change. A criminal defendant's financial data ought to be protected. The prosecutor's office represents the interests of the government agency paying for public defense. As a party, any concerns about the over-appointment of counsel could be raised in court.

Chiara: Is there a mechanism that allows a person to petition the court for access to a private record?

Ms. Williams: Yes. Under 4-202.04(2)(B), “A person not authorized to access a non-public record may file a motion to access the record. If the court allows access, the court may impose any reasonable conditions to protect the interests favoring closure.” The public can also request data from the Court Services Department regarding the number of appointments, etc.

Judge Pullan: I am comfortable with that. If there is public interest in determining whether or not the courts are appropriately appointing public defenders, and whether those funds are being expended properly, a motion could be made to access the records and the court would have the discretion to redact the records in some way if necessary.

Judge Connors moved to approve the proposed amendments to rules 4-403 and 4-202.02 as written with a recommendation that the Judicial Council approve them as final. Judge Heward seconded and the motion carried unanimously.

Judge Connors: In rule 4-403, military service orders in default debt collections cases should be included in the list of things that can be taken care of with an electronic signature or signature stamp. Those are handled by clerks in our district.

Judge Connors will work with Ms. Williams on a proposed draft for a future meeting. Those changes will not be included in the version of 4-403 approved today.

(3) CJA 3-303. Justice Court Clerks:

Jim Peters introduced Jody Thenot and Kim Zimmerman.

Mr. Peters: The proposal creates a certification requirement for every justice court clerk. Justice court clerks are not state court employees, but this idea is not without precedent. We have a certification program for juvenile probation officers as well. I will also be presenting this to the Management Committee on Tuesday. The proposed rule amendment is to CJA Rule 3-303.

There are currently 113 justice courts throughout the state, with approximately 400 justice court clerks. In the past 6 years, justice courts handled about 60% of all trial court cases. That is more than the district and juvenile courts combined. It raises an interesting question about training. Justice courts don’t have TCEs or training coordinators, many only have one clerk running the entire court. When that person leaves, there is no one to train their replacement and no one at the city or county level, including city managers, have experience running the court or with CORIS. In those smaller courts, the judge may only hold court once a week or every other week and judges aren’t in a position to train clerks. In courts with multiple clerks, a clerk with seniority may be available to train new personnel but that may not be helpful if, for example, they haven’t kept up with CORIS, MyCase, or Workspace changes. As it stands, many justice court clerks call the court’s IT department help desk with questions and are trained in that manner. That is not a good utilization of our resources and is evidence of a lack of training.

The AOC has provided training over the past 4 or 5 years, holding justice court clerk conferences twice a year. The group planning those conferences has been discussing the idea of clerk certification because justice court clerks are the backbone of those organizations and are critical to running the court properly. If the clerks aren’t well trained, judges can’t proceed. In 2018, we began holding quarterly administrative meetings with the highest-ranking clerk from every justice court, similar to the clerks of court. In 2019, that group began developing and publishing training documents, and started holding webinars called “lunch and learn,” splitting conference items up into short sessions throughout the year. Now that the learning management system (LMS) has gone live, the time is right to launch a clerk certification program.

The certification program committee has identified 137 competencies. Twenty (20) have been developed, but only 14 have been approved. The other six (6) are still out for comment. As each competency is approved, they will be added to the LMS for easy access. Each session is about 10-15 minutes long with a quiz at the end. Clerks must pass

each section with a score of 100%. They can take the quiz as many times as they need to pass. The annual certification program in LMS would include a 100-question exam that they would take at different times of the year. The exam would cover items discussed at the annual conference, legislative updates, current topics, and anything that may affect the court system, including ODR and any software updates. In order to be certified they would have to pass that exam with a score of 100%, but it can be taken as many times as needed. The goal is not to set anyone up to fail, but to ensure clerks are educated on court processes and are able to do their job well.

Ms. Thenot: As we interacted with different clerks across the state, we identified a need for consistent training that would ensure confidence in the justice court system. We have been working on this for a while and feel that it is both necessary and important.

Ms. Zimmerman: Now that we've gone live with the LMS, we are in a unique position to offer this information easily to all of the justice court clerks throughout the state. It will make a certification program much more attainable.

Judge Chiara: Do you think there will be an impact on justice courts if the clerks have to take a test every year? Do you think it will discourage people from applying or will cause clerks to quit? There is a lot of turnover amongst out district court clerks right now and I wonder if requiring an annual exam in rural areas will negatively affect their turnover rates? I support education, but I'm concerned about the pressure of having to take an annual exam.

Mr. Peters: With only one exception, the justice court administrators have been very supportive. They like the idea of knowing whether their clerks have been properly trained and can perform their jobs well. I think people outside the court would appreciate knowing whether the justice court clerks are certified. This is modeled somewhat after the BCI's annual certification requirements for TACs. Some clerks may not enjoy taking a 100-question test, but we plan to make it as manageable as possible. It isn't meant to be a "gotcha." This would allow us to see where people are struggling and make changes if needed.

Ms. Thenot: We already do something similar. Because justice courts are unique and scattered across the state, the test is critical to identify the areas where people need help. We don't have a better way to identify who might need help and on which topics.

Ms. Zimmerman: The exam isn't 100 questions all at one time, they will be able to break it up over the year. The most time will be spent on questions associated with a conference. If we approach the yearly assessment as a way to show proficiencies and identify training gaps, we can make a really positive impact. We can also try to build a community so that no one is afraid to reach out for help, especially in those courts run by a single clerk.

Judge Heward: Are we requiring this of clerks at any other level of the court?

Mr. Peters: No. The distinction is that justice court clerks are employed by 113 different entities that are not in a position to train them, whereas juvenile and district court clerks have training coordinators, clerks of court, and multiple levels of management that can observe whether they are doing a good job or not. That isn't the case in justice courts.

Judge Heward: Some clerks have been here for a number of years and they are very competent. I am wondering if a test is the best way to assess competency for experienced clerks. I have concerns about treating them all the same every year. I want to make sure we are identifying those that need help and getting them the help they need, but I'm not sure requiring every single clerk, every single year, to pass an exam is the best approach.

Mr. Peters: The group discussed that. The challenge with clerks who have been with the court for a long time is that they were around when the old case management system or the old accounting system was in place. New systems are being developed, like MySpace and ODR, and changes are frequently made to Workspace and CORIS, so even clerks with tenure will have new information to learn. We are interested in identifying areas of improvement and resources needed. That will help us develop content for the annual conference.

Judge Heward: Do you anticipate changing the exam every year as new programs come on board?

Mr. Peters: Yes. It will be a different test every year. Exams will be designed to incorporate the content from that year's annual conference and legislative update.

Judge Connors: I share the concerns expressed by Judge Chiara and Judge Heward. If the goal is make sure we are doing a good job at training, then maybe this ought to be considered a training assessment tool and not a test. The word "test" itself is offensive in some ways. If I were told I had to test every year to keep my job, I would be offended by that. On the other hand, if I'm being asked to help the AOC determine areas of weakness in its training program by giving them a sense of what I feel well trained in and what I don't, that doesn't offend me in the least. If someone were to test me on my ability to use the electronic signing queue, I would probably fail. However, I would be happy to know the areas in which I need additional training so that I can do it properly. This may be an issue of semantics or in how we talk about it.

Pullan: I assume the authority by which we require employees of counties and cities to meet proficiency standards is in our authority to certify justice courts?

Mr. Peters: Yes. Ultimately, we envision making this a part of the recertification standards justice courts have to meet every 4 years. The Board of Justice Court Judges is working on those revisions. My proposed changes to Rule 3-303 would allow us to start the recertification program now.

Judge Pullan: Do you anticipate push back from county and city HR departments who say that the proficiency of their employees is under their purview? What would we do if a clerk's score gets lower and lower every year? We don't have the authority to terminate them.

Mr. Peters: I'd say we are doing the counties and cities a favor. We will be able to help them determine whether they hired someone that isn't a good fit much sooner than they would have otherwise. I'm happy to go to the Utah League of Cities and Towns' Fall conference to have this discussion. I think they would appreciate having assurances that their clerks know what they're doing.

Judge Pullan: Does it make sense to keep testing every clerk every year? With the exception of maybe the legislative update and annual conference standards, if a clerk has passed the test with a score of 100% for 5 years, why does she need to keep taking it? Could the requirement change to every other year at that point? If we're just trying to establish a threshold level of proficiency, once they've attained that level, do they need to keep doing it every year?

Mr. Peters: In those cases, maybe we wouldn't require 100 questions. If the Committee is more comfortable with testing less often, that would be better than nothing. If we hope to test those 137 modules, but limit them to 25-50 questions every year, that's enough material to keep us going for a while. With recent and upcoming changes to ODR and CORIS, we don't anticipate a shortage of test material for several more years. Stress on, or burnout of, clerks is something worth considering.

Judge Pullan: I tend to agree with Judge Connors. How we talk about this matters, because in some ways we are creating a barrier to employment. We already have a hard time hiring and retaining clerks. This could be interpreted as us saying that we believe them to be somewhat incompetent and, therefore, they must prove to us that they're not. I worry about that message. I also worry about treating justice court clerks differently than juvenile and district court clerks.

Judge Connors: Have you conducted a focus group or received feedback from city clerks about this kind of proposal?

Mr. Peters: Yes. The justice court administrators are the highest ranking court official in their city/county. We meet with them every three months and we've discussed this multiple times. With one exception, the justice court

administrators are supportive of this idea and are excited about having a way to identify which clerks they need to focus on. This is more than just an evaluation. The program includes a curriculum. When a new clerk in a two-clerk office is hired, the more experienced clerk may not know how to train them on 137 topics. The program gives them a road map and feedback on whether their clerks understand it. In addition to the justice court administrators, the justice court clerk certification committee includes 7-8 different clerks from across the state.

Judge Connors: I have no concerns about the training aspect, it is the “testing” aspect that I worry about. It’s good to assess how well our training is received, but the notion of requiring clerks to pass a test every year in order to serve is where I get hung up.

Ms. Thenot: The proficiency of district court clerks is tied, in part, to career ladders and raises. Justice courts don’t have that system. The goal is to make sure everyone is trained and proficient. There is some flexibility to account for the range of experience and knowledge. Clerks can take a pre-assessment in LMS and if they pass, they don’t have to do the training.

Judge Pullan: This isn’t on for action today. An extraordinary amount of work has gone into this. I don’t want anyone leaving Policy and Planning with the idea that we are resistant to improving competence in the justice court. That is clearly not the case. You have articulated good reasons for why we need to be looking at this issue. I would be interested in knowing whether the Utah League of Cities and Towns and the Utah Association of Counties are supportive. We need to ensure they are okay with us creating a rigorous standard for their employees. I can’t imagine they would be opposed for the reasons Mr. Peters stated, but bringing them to the table on the front end may help us avoid misunderstandings. How long will it take you to meet with them?

Mr. Peters: The League’s main meeting is in the Fall. UAC may be more of a challenge, especially with the session starting soon. I will report back after I’ve met with those two groups.

(4) HR policies:

- HR 1-5 – Judge Pullan
- HR 6-7 – Judge Cannell/Judge Heward
- HR 8-9 – Rob Rice
- HR 10-14 – Judge Connors
- HR 15-17 – Judge Chin

Judge Connors: At the last meeting, I asked for clarification on the provision in rule 3-501 on automatic benefits. It sounds like it guarantees benefits for five years, making the earned benefits only two years, but it’s unclear.

Judge Pullan: We need to make sure our rules reflect our practice.

Mr. Olsen and Judge Connors will follow-up on that issue after the meeting.

Judge Pullan: To make the review process more efficient, Mr. Olsen is proposing that he schedule one-hour meetings with each member to discuss questions or notes on their assigned policies. Many of the suggestions in the Google doc are grammatical and don’t need to be discussed during a meeting. After the individual meetings, Mr. Olsen would bring all of the policies back to the full committee for a robust discussion on substantive policy issues.

Mr. Olsen: I think that would save a lot of time. Each member would know exactly what they want to discuss with the full committee and the reason behind the proposed amendments.

After further discussion, the Committee agreed to Mr. Olsen’s proposal. The Committee’s February 5th meeting will be extended to three hours (12:00-3:00 pm) and will be dedicated to finalizing as many of the proposed HR policy amendments as possible.

Judge Cannell asked about the employee overtime compensation policy.

Mr. Olsen: The overtime issue is addressed in Section 8. I am working with Brent Johnson on a memo regarding the court's obligation to pay for compensable hours under the Fair Labor Standards Act. We need to be made aware if employees have worked overtime hours that haven't been reported, so that those employees can be paid as required. Mr. Johnson spoke with the TCEs and we are developing a reporting and approval process through management. We need open communication between line staff and management when overtime is needed, and employees need to understand that they will be compensated for time worked. The memo will also address how we plan to manage overtime moving forward.

Judge Chiara: In rural areas, many clerks don't feel like they can take overtime. They either leave and complete the work the next day, even if it needed to be done the same day, or stay to complete the work but don't report the overtime hours. They don't know, or don't feel, that they can account for the overtime hours.

Judge Pullan: If employees are working overtime and not reporting it, it needs to stop today. We need to find out if we have a financial responsibility. We may need to look at getting additional FTEs, but the cultural issues definitely need to change.

Mr. Rice: I reviewed section 8 and it accurately addresses the court's policy on overtime. The cultural aspect is a separate training issue and it's an important one to address with managers.

Mr. Olsen: This is something that needs to be addressed at all management levels and on an ongoing basis.

(10) ADJOURN:

With no further items for discussion, Judge Connors moved to adjourn the meeting. With no opposition, the meeting adjourned at 1:30 pm. The next meeting will be on February 5, 2021 at noon via Webex video conferencing.

TAB 2

Grant Policies and Procedures

NOTES: Per the discussion at the January 25th Judicial Council meeting, Policy and Planning will provide feedback and guidance to the Grants Coordinator to assist with the development of rule drafts, etc. related to the new grant policies and procedures.

Policy and Planning - Rule Amendment Request Form

The respondent's email address (**jordanm@utcourts.gov**) was recorded on submission of this form.

Instructions

Unless the proposal is coming directly from the Utah Supreme Court, Judicial Council, or Management Committee, this Request Form must be submitted along with a draft of the proposed rule amendment before it will be considered by the Policy and Planning Committee.

To be considered, you must e-mail your proposed rule draft to Keisa Williams at keisaw@utcourts.gov.

Date of Request *

MM DD YYYY

01 / 27 / 2021

Name of Requester *

Jordan Murray

Requester Phone Number *

703-489-2904

Name of Requester's Supervisor *

Karl Sweeney

Location of the Rule *

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name *

CJA 3-411 and Accounting Manual Section 11-07

Brief Description of Rule Proposal *

Proposal to revise CJA 3-411 and Accounting Manual Section 11-07 to include the principles drafted in the associated memorandum, covering the origination and prioritization of grant requests, the approval process for grants, and grant compliance.

Reason Amendment is Needed *

To provide additional oversight and rules for grant governance, including principles for monitoring active grants and the process by which new grant opportunities are considered for action.

Is the proposed amendment urgent? *



Yes



No

If urgent, please provide an estimated deadline date and explain why it is urgent.

February 26, 2021 | Revision of CJA 3-411 and Accounting Manual Section 11-07 will provide much needed guardrails for grant compliance monitoring and structure to overall grant governance.

Select each entity that has approved this proposal. *

- ☐ Accounting Manual Committee
- ☐ ADR Committee
- ☐ Board of Appellate Court Judges
- ☐ Board of District Court Judges
- ☐ Board of Justice Court Judges
- ☐ Board of Juvenile Court Judges
- ☐ Board of Senior Judges
- ☐ Children and Family Law Committee
- ☐ Court Commissioner Conduct Committee
- ☐ Court Facility Planning Committee
- ☐ Court Forms Committee
- ☐ Ethics Advisory Committee
- ☐ Ethics and Discipline Committee of the Utah Supreme Court
- ☐ General Counsel
- ☐ Guardian Ad Litem Oversight Committee
- ☐ HR Policy and Planning Committee
- ☐ Judicial Branch Education Committee
- ☐ Judicial Outreach Committee
- ☐ Language Access Committee
- ☐ Law Library Oversight Committee
- ☐ Legislative Liaison Committee
- ☐ Licensed Paralegal Practitioner Committee
- ☐ Model Utah Civil Jury Instructions Committee
- ☐ Model Utah Criminal Jury Instructions Committee
- ☐ Policy and Planning member
- ☐ Pretrial Release and Supervision Committee

- ☐ Resources for Self-Represented Parties Committee
- ☐ Rules of Appellate Procedure Advisory Committee
- ☐ Rules of Civil Procedure Advisory Committee
- ☐ Rules of Criminal Procedure Advisory Committee
- ☐ Rules of Evidence Advisory Committee
- ☐ Rules of Juvenile Procedure Advisory Committee
- ☐ Rules of Professional Conduct Advisory Committee
- ☐ State Court Administrator
- ☐ TCE's
- ☐ Technology Committee
- ☐ Uniform Fine and Bail Committee
- ☐ WINGS Committee
- ☒ None of the Above
- ☐ Option 40

If the approving entity (or individual) is not listed above, please list it (them) here.

The Judicial Council and Budget & Fiscal Management Committee

List all stakeholders who would be affected by this proposed amendment. *

Judicial Council, Supreme Court Committees and Judicial Council Committees, other Court staff considering or administering grant-funded projects.

This form was created inside of Utah State Courts.

Google Forms



Administrative Office of the Courts

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

January 20, 2021

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

Request to Judicial Council re: Court Grant Program Partial Lifting of New Grant Moratorium

To: Judicial Council
From: Karl Sweeney, Director of Finance
Jordan Murray, Grants Coordinator

As the attached Draft Utah Courts Grant Policies and Procedures Memorandum outlines, we have addressed the majority of issues raised by the Judicial Council on grant governance. The Budget and Fiscal Management Committee has reviewed the attached document and has approved its submission for Judicial Council review and approval of the principles contained in the Memorandum, and seeks approval to move forward with incorporating those principles into UCJA 3-411 (Grant Management) through a revision of that Rule, as well as a revision of Section 11-07 Grants (Federal and Non-Federal) of the Accounting Manual.

Steps accomplished:

- Created an overall Court's Grant Policies and Procedures Memorandum (attached) which provides appropriate "guardrails" for managing grants. These policies cover:
 - Grant origination and prioritization procedures,
 - Grant approval procedures, including a grant approval flowchart and
 - Grant compliance procedures
- Created a Court Grant Compliance Calendar (attached) that tracks due dates for existing compliance submissions. We also have created and are populating a Court Grant Info Sheet that provides contact information within the Courts and Grantors.
- Begun review of all Court's Grant approval and compliance during the past 5 years. This step is ongoing but we have not found any "red flags" indicating major compliance omissions.
- Contacted all Court grant managers and implemented a review process (by Director of Finance and Grant Coordinator) for all grant compliance submissions.

Permission requested:

- Pending the completion of our review of grant compliance for the past 5 years, and revision of UCJA 3-411 (Grant Management), we request a lifting of the moratorium on pursuing new grants for only those grants that have time-sensitive considerations such that further delay would jeopardize obtaining the grant or its usefulness. The moratorium would be lifted to allow communications to occur between the Courts and potential grantors, but approval of any grants would not be sought until the compliance review is completed and the Council has approved a revised version of UCJA Rule 3-411. It is our plan to present the findings of our review of past compliance and present the proposed revisions to UCJA Rule 3-411 at the February 2021 Judicial Council meeting.

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

UTAH COURTS GRANT POLICIES AND PROCEDURES MEMORANDUM

1. ORIGATION AND PRIORITIZATION OF GRANT REQUESTS

- a. For areas where the Utah Constitution stipulates the Supreme Court has jurisdiction, the Supreme Court will prioritize the pursuit of grants (subject to Judicial Council approval as set forth in Section 2 below) that complement those areas, including:¹
 - i. Issuing extraordinary writs and answering questions of state law
 - ii. Appellate jurisdiction as provided by statute
 - iii. Adopting rules of procedure and evidence
 - iv. Governing the practice of law

All Supreme Court requests will be subject to a collaborative analysis coordinated by the Grants Coordinator (“GC”) that ascertains impacts on Administrative Office of the Courts (AOC) resources, with particular emphasis on Court IT capacity. Findings from the collaborative analysis will be described and included in the request for approval submitted to the Budget and Fiscal Management Committee and Judicial Council.

- b. For all other Court areas, the Judicial Council will prioritize the pursuit of grants that are submitted for consideration by the Budget and Fiscal Management Committee. The Judicial Council prioritization process is as follows:
 - i. To maximize flexibility of funding opportunities for the Courts, grants may be considered for approval at any time.
 - ii. All grant requests will be subject to a collaborative analysis coordinated by the GC that ascertains impacts on Administrative Office of the Courts (AOC) resources, with particular emphasis on Court IT capacity. Findings from the collaborative analysis will be described and included in the request for approval submitted to the Budget and Fiscal Management Committee and Judicial Council.
 - iii. The GC will meet annually with all Court Boards (District, Juvenile, Justice, and Appellate), select committees (Judicial Council Committees and Supreme Court Committees) and current grant managers to discuss:
 - 1. Current needs and priorities that can be funded with grants, including supplemental needs for all current grants (annually, Jan - March).
 - 2. Future ideas/opportunities that could benefit from grant funding (annually, Jan - March).

¹ See Utah Constitution Article VIII Sections 3, 4 and 5)

3. Potential sources of funding for the needs and priorities identified in steps 1 and 2 (annually, Jan - March).
 4. All grant requests will be subject to a collaborative analysis coordinated by the GC that ascertains impacts on Administrative Office of the Courts (AOC) resources, with particular emphasis on Court IT capacity. Findings from the collaborative analysis will be described and included in the request for approval submitted to the Budget and Fiscal Management Committee and Judicial Council.
- iv. Following the budget pattern, the GC will seek approval from the Budget and Fiscal Management Committee on priorities for the upcoming year (annually, May- June).
 - v. The Judicial Council will approve the final grant plan and priorities annually in June.

2. APPROVAL PROCESS FOR ALL GRANTS - See Exhibit A

- a. The Budget and Fiscal Management Committee and Judicial Council will consider and approve grant opportunities according to the following criteria:
 - i. How essential is the grant to accomplishing the mission of the Utah Courts to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law?
 - ii. How much additional value does the grant create in comparison to the additional burden it creates on existing and future Court resources both during the grant project completion phase and thereafter?
 - iii. How well does the grant perform in providing measurable benefits to marginalized, minority, pro se, or similar under-served individuals and/or communities?

Grants which do not require funds matching (cash and/or in-kind) shall be considered preferable compared to those which do require such matches.

3. COMPLIANCE FOR APPROVED AND FUNDED GRANTS AND OTHER GRANT POLICIES

- a. All funded grants shall have an assigned grant manager who is the primary responsible party for grant compliance and management activities. Whenever the GC does not have primary responsibility, the grant manager will coordinate deliverables with the GC who will perform review of grant reporting for timeliness and accuracy prior to submission to Grantor.
 - i. The GC will maintain a compliance calendar including all reporting requirements for the Court's grant portfolio.

- ii. No later than three (3) business days before a reporting deadline the grants manager will forward all associated deliverables to the GC for review and approval.
 - iii. If approved by the GC, the grant manager will be notified to proceed with submission of grant deliverables. If not approved, remedial steps will be communicated to the grant manager to be addressed prior to submission.
 - iv. Each February, the GC will complete a compliance review for all grants in the Courts' portfolio. The results of this review will be compiled into a report and delivered to the Budget and Fiscal Management Committee, Internal Audit and the Judicial Council.
- b. The GC will be responsible for proposing updates to the Accounting Manual's Grants section as necessary.
- c. Grant funds shall not be used to hire permanent full-time equivalent employees unless specifically allowed under statute and approved by the Judicial Council.
- d. In instances where matching funds are required and to the extent possible, the grant will be structured to allow for in-house labor to count towards grant matching requirements.
- e. Where possible and in consultation with Court IT, grant funds will be sought to hire external resources to complete IT-related tasks.

Exhibit A

Grant Review & Approval Process

Grants with Supreme Court jurisdiction:
The Supreme Court may prioritize & authorize the pursuit of grants under their purview prior to review by BFMC and Judicial Council (Article VIII, Sections 3-4-5 of Utah Constitution)

Grants in all other Court areas:
Prior to review by Judicial Council, all grant proposals must be approved by the TCE & presiding judges in the affected districts & the court level administrator followed by approval from the appropriate Board of Judges & BFMC (CJA Rule 3-411)

Federal Funding

Grants Coordinator

Non-Federal Funding

Tier 1: Low Impact (UCA 63J-5-203)
Meets all of the below conditions:
≤ \$1 million per year in federal funds;
No new permanent full or part-time employees; and
No new state monies for match

Approval or rejection by Judicial Council only ¹

Report to Executive Appropriations Committee and Office of the Legislative Fiscal Analyst, and Office of Legislative Research and General Counsel ¹

Tier 2: Medium Impact (UCA 63J-5-204 1(b))
Meets any one of the below conditions:
≥ \$1 million but < \$10 million per year in federal funds; or
Require state to add more than 0 but less than 11 permanent or part-time employees; or
Require state to expend up to \$1 million per year of new state monies as match

Approval or rejection by Judicial Council ²

Review & Recommendation by Executive Appropriations Committee ²

Tier 3: High Impact (UCA 63J-5-204 1(a))
Meets any one of the below conditions:
≥ \$10 million per year in federal funds; or
Require state to add ≥ 11 permanent full or part-time employees; or
Require the state to expend > \$1 million per year in new state monies as match

Approval or rejection by Judicial Council ²

Approval or rejection by the Legislature in a general or special session within 90 days of submitting request to funding source ²

Tier 1: Low Impact (UCA 63J-7-202)
Meets all of the below conditions:
At least \$10k but no more than \$50k in non-federal funds;
No new permanent full or part-time employees; and
No new state monies required for match

Approval or rejection by Judicial Council only ³

Report to Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst ³

Tier 2: Medium Impact (UCA 63J-7-203)
Meets any one of the below conditions:
> \$50k but < \$1 million per year in non-federal funds; or
Require the state to add more than 0 but less than 11 permanent full or part-time employees; or
Require the state to expend \$1 to \$1 million of new state monies in a fiscal year as match

Approval or rejection by Judicial Council ⁴

Review & Recommendation by Executive Appropriations Committee ⁴

Tier 3: High Impact (UCA 63J-7-203)
Meets any one of the below conditions:
≥ \$1 million per year in non-federal funds; or
Require the state to add 11 or more permanent full or part-time employees; or
Require the state to expend > \$1 million per year in new state monies as match

Approval or rejection by Judicial Council ⁴

Approval or rejection by the Legislature in a general or special session within 90 days of submitting request to funding source ⁴

1. UCA 63J-5-203
2. UCA 63J-5-204
3. UCA 63J-7-202
4. UCA 63J-7-203

\$ = Courts may accept funds

Grants Compliance Grid						
2021						
Grant Name & Details	Grantor Contact	Amount	Report Date (Due)	Report Description	Link to Reports/Forms (if available)	
Utah Bar Foundation (Unit 2907) Salt Lake County CARES Act Award Courts Administrator: AOC	Kim Paulding kpaulding@utahbarfound ation.org	N/A	N/A	N/A	N/A	
N/A						
State Justice Institute (Unit 2932) Preliminary Needs Analysis of Appellate e-Filing Courts Administrator: Larissa Lee	Jonathan Mattiello Assistant: Jenny Culnen (jenny.culnen@sjj.gov)	\$ 50,000.00	1/30, 4/30, 7/30, 10/30	Quarterly progress and financial status reports to be submitted within 30 days of close of each calendar quarter (January 30, April 30, July 30, October 30) Note: Reports associated with grants awarded in FY 2021 and beyond must be uploaded to the GMS. Reports for grants awarded prior to FY 2021 are emailed to contact@sjj.gov	Navigate to "Forms" Forms F/Q/R https://www.sjj.gov/grant-management/	
State Justice Institute (Unit 2933) Piloting Utah's Legal Services Oversight Office Courts Administrator: Larissa Lee	Jonathan Mattiello Assistant: Jenny Culnen (jenny.culnen@sjj.gov)	\$ 200,000.00	1/30, 4/30, 7/30, 10/30	Quarterly progress and financial status reports to be submitted within 30 days of close of each calendar quarter (January 30, April 30, July 30, October 30) Note: Reports associated with grants awarded in FY 2021 and beyond must be uploaded to the GMS. Grants awarded prior to FY 2021 are emailed to contact@sjj.gov	Navigate to "Forms" Forms F/Q/R https://www.sjj.gov/grant-management/	
State Justice Institute (Unit 2935) Online Dispute Resolution (ODR) Assessment Courts Administrator: Heidi Anderson Cash match from Pew: \$110,000 (SJI funds \$75,000)	Jonathan Mattiello Assistant: Jenny Culnen (jenny.culnen@sjj.gov)	\$ 75,000.00	1/30, 4/30, 7/30, 10/30	Quarterly progress and financial status reports to be submitted within 30 days of close of each calendar quarter (January 30, April 30, July 30, October 30) Note: Reports associated with grants awarded in FY 2021 and beyond must be uploaded to the GMS. Grants awarded prior to FY 2021 are emailed to contact@sjj.gov	Navigate to "Forms" Forms F/Q/R https://www.sjj.gov/grant-management/	
Violence Against Women Act / VAWA (Unit 2936) Courts Administrator: Amy Hernandez	Department of Justice / Utah Office for Victims of Crime	\$ 150,000.00	10/30, 1/30, 4/30, 7/30 10/30, 1/30, 4/30, 7/30 Closeout: 1/15/2021 Annually by 1/31	Quarterly SUCCESS Report (October 30th, January 30th, April 30th, July 30th) Financial Status Report (October 30th, January 30th, April 30th, July 30th) Note: (reimbursement request can be done monthly or quarterly) Muskie Report	Utah Grants Management System utahgrants.utah.gov Grants Management System Emailed to Grant Manager	
Pew Charitable Trusts (Unit 2943) Online Dispute Resolution (ODR) Assessment Court Administrator: Heidi Anderson	Lester Bird lbird@pewtrusts.org	\$ 110,000.00	3/8/2021 6/30/2021	Narrative and Financial Report Narrative and Financial Report (Final)	Pew Grants Management Portal (pewtrusts.force.com) Pew Grants Management Portal (pewtrusts.force.com)	
HHS Court Improvement Program: Data Program (2918)	Janice Realeza janice.realeza.acf.hhs.gov	\$ 150,000.00	Annually by 12/31 Quarterly	Federal Financial Report Quarterly cash transaction reports	Payment Management System (www.dpm.psc.gov) Payment Management System (www.dpm.psc.gov)	
HHS Court Improvement Program: Training Program (2919)	Janice Realeza janice.realeza.acf.hhs.gov	\$ 150,000.00	Annually by 12/31 Quarterly	Federal Financial Report Quarterly cash transaction reports	Payment Management System (www.dpm.psc.gov) Payment Management System (www.dpm.psc.gov)	
HHS Court Improvement Program: Basic Program (Unit 2957)	Janice Realeza janice.realeza.acf.hhs.gov	\$ 150,000.00	Annually by 12/31 Quarterly	Federal Financial Report Quarterly cash transaction reports	Payment Management System (www.dpm.psc.gov) Payment Management System (www.dpm.psc.gov)	
HHS State Access & Visitation (2962) Court Administrator: Nini Rich	Karen Code	\$ 100,000.00	Annually by 12/31 Quarterly	Federal Financial Report Quarterly cash transaction reports	Payment Management System (www.dpm.psc.gov) Payment Management System (www.dpm.psc.gov)	
Utah Office for Victims of Crime VOCA (2967) Court Administrator: Melanie Speechly	Vickie Bushman vsbushman@utah.gov	\$ 507,137.60	Quarterly, 1/30, 4/30, 7/30	Grant progress report, performance measure report, financial status report	Utah Grants Management System utahgrants.utah.gov	
CASA Mentoring (2968) Court Administrator: Melanie Speechly		\$ 26,662.00	1/31/2021 7/31/2021 Due the 15th of each month 15th of the month after each quarter end (e.g., July-September period is due Oct	Narrative Report #1 Narrative Report #2 Expense report and supporting documentation (i.e. payroll reports, invoices, timecards) Grant volunteers and children-served numbers	Grantee Budget Information System (GBIS) (http://nc.casaforchildren.org/_gbis/login.asp) Grantee Budget Information System (GBIS) (http://nc.casaforchildren.org/_gbis/login.asp) Grantee Budget Information System (GBIS) (http://nc.casaforchildren.org/_gbis/login.asp) Supporting documentation emailed to: grantexpenses@casaforchildren.org Grantee Budget Information System (GBIS) (http://nc.casaforchildren.org/_gbis/login.asp)	

2021

JANUARY

CALENDAR YEAR

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
28	29	30	31	01	02	03
04	05	06	07	08	09	10
11	12	13	14	15 VAWA (2936) - Grant Closeout	16	17
18	19 VAWA (2936) Financial Report due	20	21	22	23	24
25	26	27	28	29 SJI (2932,2933,2935) - Q4 Reports Due VAWA (2936) - SUCCESS Report Due, Financial Status Report Due, Muskie Report Due VOCA (2967) - Progress report, financial status report SACA (2968) - Progress report, financial status report	30	31

2021

FEBRUARY

MONDAY

CALENDAR YEAR

CALENDAR MONTH

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
01	02	03	04	05	06	07
08	09	10	11	12	13	14
15 CASA Mentoring (2968) - Expense report	16	17	18	19	20	21
22	23	24	25	26	27	28

2021

CALENDAR YEAR

MARCH

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
01	02	03	04	05	06	07
08 Pew (2943) - Narrative and Financial Report Due	09	10	11	12	13	14
15 CASA Mentoring (2968) - Expense report	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	01	02	03	04

2021

CALENDAR YEAR

APRIL

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
29	30	31	01	02	03	04
05	06	07	08	09	10	11
12	13	14	15 CASA Mentoring (2968) - Expense report	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30 SJI (2932,2933,2935) - Q1 Reports Due VAWA (2936) - Financial Status Report due VOCA (2967) - Progress report, financial status report	01	02

2021

CALENDAR YEAR

MAY

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
26	27	28	29	30	01	02
03	04	05	06	07	08	09
10	11	12	13	14 CASA Mentoring (2968) - Expense report	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	01	02	03	04	05	06

2021

CALENDAR YEAR

JUNE

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
31	01	02	03	04	05	06
07	08	09	10	11	12	13
14	15 CASA Mentoring (2968) - Expense report	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30 Pew (2943) - Final Narrative and Financial Report Due	01	02	03	04

2021

CALENDAR YEAR

JULY

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
28	29	30	01	02	03	04
05	06	07	08	09	10	11
12	13	14	15 CASA Mentoring (2968) - Expense report	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30 SJI (2932,2933,2935) - Q2 Reports Due VAWA (2936) - Financial Status Repor due VOCA (2967) - Progress report, financial status report CASA Mentoring (2968) - Narrative report #2	31	01

2021

CALENDAR YEAR

AUGUST

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
26	27	28	29	30	31	01
02	03	04	05	06	07	08
09	10	11	12	13 CASA Mentoring (2968) - Expense report	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	01	02	03	04	05

2021

SEPTEMBER

CALENDAR YEAR

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
30	31	01	02	03	04	05
06	07	08	09	10	11	12
13	14	15 CASA Mentoring (2968) - Expense report	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	01	02	03

2021

OCTOBER

CALENDAR YEAR

CALENDAR MONTH

MONDAY

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
27	28	29	30	01	02	03
04	05	06	07	08	09	10
11	12	13	14	15 CASA Mentoring (2968) - Expense report	16	17
18	19	20	21	22	23	24
25	26	27	28	29 SJI (2932,2933,2935) - Q3 Reports Due	30	31

2021

NOVEMBER

MONDAY

CALENDAR YEAR

CALENDAR MONTH

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
01	02	03	04	05	06	07
08	09	10	11	12	13	14
15 CASA Mentoring (2968) - Expense report	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	01	02	03	04	05

2021

DECEMBER

MONDAY

CALENDAR YEAR

CALENDAR MONTH

FIRST DAY OF WEEK

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
29	30	01	02	03	04	05
06	07	08	09	10	11	12
13	14	15 CASA Mentoring (2968) - Expense report	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30 HHS (2918,2919, 2957,2962) - Federal Financial Report Due	31	01	02

TAB 3

Rules back from Public Comment

- CJA 3-101. Judicial Performance Standards
- CJA 3-108. Judicial Assistance

Notes: The rules above are back from a 45-day comment period. No comments were received on either rule.

3-101: I spoke with Jennifer Yim. She said, “JPEC does not plan to object to the proposed rule amendments nor does it propose additional amendments. I do hope that the AOC will develop new forms that provide a space for judges to disclose the reasons supporting their self-report.”

- Would it be a good idea to ask the Board of District Court Judges to make a recommendation regarding potential amendments to the self-declaration form?

3-108: This rule amendment authorizes the presiding officer of the Judicial Council to appoint a district court presiding judge as the signing judge for automatic expungements in all district courts within the presiding judge’s district.

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.

~~(42)~~ **Definition of cCase 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 Case under advisement performance standards.

~~(23)~~ (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.

~~(23)~~ (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.

(4) Case under advisement performance standards—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.

(35) Judicial eEducation performance standard.

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

(5)(B) Education hour standard—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.

(46) Physical and mental competence performance standard. 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.

(7) 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:

(7)(A) Compliant;

(7)(B) 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; or

69 (7)(C) Non-compliant, which may include a judge who has certified his or her own
70 compliance but the Judicial Council has received credible information inconsistent with that
71 certification.

72 (7)(D) All material relied upon by the Judicial Council in making a certification decision or
73 explanation shall be forwarded to JPEC and shall be made public to the extent that the
74 information is not confidential personal health information.

75
76 *Effective May/November 1, 20__*

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 district courts within the presiding judge's district. The length of the assignment may coincide with the judge's term as presiding judge.

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

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

(5) Schedule of trials or court sessions. The state court administrator, 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.

May/November 1, 20__

TAB 4

CJA 4-206.Exhibits

NOTES:

On August 27, 2019, the State Auditor released Performance Audit 19-03 “An Audit of Evidence Storage and Management Among Selected Utah District and Juvenile Courts.” The audit identified multiple issues requiring immediate attention by the Court. The focus of the audit centered around compliance with Code of Judicial Administration rule 4-206, addressing proper procedure and management in securing of exhibits and evidence. Specifically, the audit addressed property evidence, including drugs, weapons, paraphernalia, large-sized items, dangerous pieces of evidence typically the subject of chain of custody protocol.

At its March 2020 meeting, P&P reviewed a first draft of 4-206 and made the following recommendations:

- include an allowance for judges to store certain non-sensitive exhibits in their chambers during recesses and when taking a case under advisement;
- strike (1)(B) because it is essentially a rule of civil procedure and appears to conflict with URCP rule 26;
- clarify that the court may retain copies of digital exhibits on a thumb drive or disk; and
- ensure exhibits are retained by the court and parties until after all post-conviction relief timeframes have expired.

The task force made amendments to address the Committee’s concerns and the Clerks of Court have vetted the latest draft. Both a redlined and clean version are included in the packet due to the extensive revisions. The plan for this meeting is not to engage in a substantive discussion, but to reintroduce the issue, with a substantive discussion on March 5th.



Questions Responses 4

4 responses



Accepting responses



Summary

Question

Individual

lonip@utcourts.gov



4

of

4



Responses cannot be edited

Policy and Planning - Rule Amendment Request Form

* Required

Instructions

Unless the proposal is coming directly from the Utah Supreme Court, Judicial Council, or Management Committee, this Request Form must be submitted along with a draft of the proposed rule amendment before it will be considered by the Policy and Planning Committee.

To be considered, you must e-mail your proposed rule draft to Keisa Williams at keisaw@utcourts.gov.

Date of Request *

MM DD YYYY

01 / 25 / 2021

Name of Requester *

Loni Page

Requester Phone Number *

435-259-1355

Name of Requester's Supervisor *

Travis Erickson

Location of the Rule *

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name *

4-206 Exhibits

Brief Description of Rule Proposal *

Incorporate a digital exhibit process. Add more explicit instructions for the safeguarding, release and destruction of exhibits.

Reason Amendment is Needed *

A digital exhibit process is needed to accommodate virtual hearings. More explicit instructions are needed to improve our management of evidence as highlighted in the August 2019 evidence audit.

Is the proposed amendment urgent? *



Yes



No

If urgent, please provide an estimated deadline date and explain why it is urgent.

The audit findings for the Court's exhibit process were released August 2019 and many of these proposed amendments are in response to the audit findings. Additionally, many courts are currently accepting and managing digital exhibits without a rule to support it.

Select each entity that has approved this proposal. *

- ☐ Accounting Manual Committee
- ☐ ADR Committee
- ☐ Board of Appellate Court Judges
- ☐ Board of District Court Judges
- ☐ Board of Justice Court Judges
- ☐ Board of Juvenile Court Judges
- ☐ Board of Senior Judges
- ☐ Children and Family Law Committee
- ☐ Court Commissioner Conduct Committee
- ☐ Court Facility Planning Committee
- ☐ Court Forms Committee
- ☐ Ethics Advisory Committee
- ☐ Ethics and Discipline Committee of the Utah Supreme Court
- ☒ General Counsel
- ☐ Guardian Ad Litem Oversight Committee
- ☐ HR Policy and Planning Committee
- ☐ Judicial Branch Education Committee
- ☐ Judicial Outreach Committee
- ☐ Language Access Committee
- ☐ Law Library Oversight Committee
- ☐ Legislative Liaison Committee
- ☐ Licensed Paralegal Practitioner Committee
- ☐ Model Utah Civil Jury Instructions Committee
- ☐ Model Utah Criminal Jury Instructions Committee
- ☐ Policy and Planning member
- ☐ Pretrial Release and Supervision Committee

- ☐ Resources for Self-Represented Parties Committee
- ☐ Rules of Appellate Procedure Advisory Committee
- ☐ Rules of Civil Procedure Advisory Committee
- ☐ Rules of Criminal Procedure Advisory Committee
- ☐ Rules of Evidence Advisory Committee
- ☐ Rules of Juvenile Procedure Advisory Committee
- ☐ Rules of Professional Conduct Advisory Committee
- ☐ State Court Administrator
- ☐ TCE's
- ☐ Technology Committee
- ☐ Uniform Fine and Bail Committee
- ☐ WINGS Committee
- ☐ None of the Above
- ☐ Option 40

If the approving entity (or individual) is not listed above, please list it (them) here.

Clerks of Court and Evidence Audit Committee

List all stakeholders who would be affected by this proposed amendment. *

Judges, clerical staff, attorneys, pro se litigants, appellate courts

Submitted 1/25/21, 4:27 PM

Rule 4-206. Exhibits.**Intent:**

To establish a uniform procedure for the receipt, maintenance and release of exhibits.

Applicability:

This rule shall apply to all trial court proceedings in courts of record and not of record, except small claims court.

Statement of the Rule:**(1) Prior to Trial.** ~~Marking exhibits.~~

(1)(A) **Marking Exhibits.** Prior to trial, each party must mark all exhibits it intends to introduce by utilizing exhibit labels in the format prescribed by the clerk of court of the judicial district in which the trial is located. Labels or tags must include, at a minimum, a case number, exhibit number/letter, and an appropriate party designation. With approval of the court, a photograph may be offered by the submitting party as a representation of the original exhibit. All exhibits offered as evidence shall be marked with a label or tag, which shall contain, at a minimum, the exhibit number or alpha identification, the case number, the date received, and the initials of the clerk who received the exhibit.

(1)(B) **Digital Exhibits.** Digital exhibits must be marked as provided in paragraph (1)(A) and submitted to the court as prescribed by the clerk of court of the judicial district in which the trial is located. Exhibits should not be eFiled. The clerk shall designate the source of the exhibit by the letter "P" if it is received from plaintiff and "D" if it is received from defendant. In cases with multiple parties, the label shall further identify the parties, e.g. 1st D is the first named defendant in the pleadings, 3rd D is the third party defendant.

(1)(C) ~~The clerk shall secure the label on the item and shall affix more than one identical label when necessary.~~

(1)(D) ~~The court may order exhibits to be marked in advance of the date and time of trial or other hearing.~~

(2) During Trial. ~~Exhibit custody and tracking.~~

(2)(A) **Custody of the Parties.** During the trial, bulky and sensitive exhibits, and exhibits that require law enforcement chain of custody, will remain in the custody of the party offering the exhibit. Such exhibits include, but are not limited to: biohazards, controlled substances, firearms, ammunition, explosive devices, pornographic materials, jewelry, poisonous or dangerous chemicals, intoxicating liquors, money or articles of high monetary value, counterfeit money, original digital storage media, and documents or physical exhibits of unusual bulk or weight. The clerk of court or designee must list these exhibits in the exhibit list and note that the original exhibit is in the custody of the party. The exhibit custody tracking record means the CORIS computer system or a form approved by the Administrative Office of the Courts. If an approved form is used as the exhibit custody tracking record, it shall be placed in the case file.

(2)(B) **Custody of the Court.** Physical exhibits received during trial, other than those in paragraph (2)(A), must be placed in the custody of the clerk of court or designee. Digital exhibits received as evidence by the court during the trial shall be stored electronically in accordance with paragraph (2)(C). The clerk of court or designee must list all exhibits in the exhibit list, and the list shall be made a part of the court record. An exhibit list may be the court's designated case management system or a form approved by the Judicial Council. Each person with custody of an exhibit shall

~~identify herself or himself in the exhibit custody tracking record and record changes in the status of the exhibit contemporaneous with the event.~~

(2)(C) **Secured Storage.** ~~Prior to daily adjournment, the clerk, under the direction of the court, shall compare the exhibit custody tracking record with the exhibits in the custody of the clerk. The clerk shall keep the exhibits received at trial in a container. The container shall be numbered and shall identify the case name and number.~~

(2)(C)(i) Upon daily adjournment, the clerk of court or designee must compare the exhibit list with the exhibits received that day. Digital exhibits received under paragraph (2)(B) shall be stored electronically in a manner meeting the requirements outlined in paragraph (3)(A)(ii). Physical exhibits received under paragraph (2)(B) must be stored in an envelope or container, marked with the case number, and stored in a secured storage location that meets the requirements outlined in paragraph (3)(A)(ii).

(2)(C)(ii) Exhibits may be stored in a temporary secured location for no more than 72 hours, provided the temporary location is sufficient to prevent access by unauthorized persons, and the location is secured with a key lock, combination lock, or electronic lock. Access to the temporary storage location shall be limited to the clerk of court, judge, or a designee.

~~(2)(D) Each court location shall provide a locked facility for storing exhibits. The Clerk of the Court shall appoint an exhibit manager with responsibility for the security, maintenance and disposition of exhibits. Access to the exhibit storage area by anyone other than the exhibit manager and the clerk is prohibited without a court order.~~

~~(2)(E) Unless otherwise ordered by the court, at the conclusion of the trial or proceeding, the clerk shall release to the party offering them all exhibits not suitable for filing and transmission to the appellate court as part of a record on appeal. Such exhibits include, but are not be limited to: narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and exhibits of unusual bulk or weight. The clerk shall transfer the remaining exhibits to the exhibit manager. The exhibit manager shall record receipt and location of the exhibits.~~

~~(2)(F) The exhibit manager shall record the date of release of exhibits and to whom released, if applicable.~~

(3) **After Trial.** ~~Withdrawal of exhibits.~~

(3)(A) **Pending Disposition.** Exhibits in the court's custody pursuant to paragraph (2)(B) may not be taken from the custody of the clerk of court or designee until final disposition of the case, except upon order of the court and execution of a receipt that identifies the material, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record. If the time for filing an appeal or requesting a rehearing or new trial has not expired, exhibits may be withdrawn only upon written order of the court.

(3)(A)(i) Exhibit Manager. The clerk of court shall appoint an exhibit manager with responsibility for the security, maintenance, documentation of the chain of custody, and disposition of exhibits. The clerk of court may also appoint a person to act as exhibit manager during periods when the primary exhibit manager is absent. Unaccompanied or unauthorized access to secured storage locations by anyone other than the exhibit manager, acting exhibit manager, or the clerk of court is prohibited without a court order.

(3)(A)(ii) Secured Storage Location. Each court must provide physical and electronic secured storage locations within their facility for storing exhibits retained by the court under subsection (2)(B). The physical secured storage

location must be sufficient to prevent access from unauthorized persons, secured with a key lock, combination lock, or electronic lock, and protected from theft or damage. The electronic secured storage location should be sufficient to prevent access from unauthorized persons. Prior to use, physical and electronic secured storage locations must be certified by the Court Security Director. Requests for certification must be made in writing and shall fully describe the secured storage location, local access procedures, and security controls. Any changes to the location, access procedures, or security controls require recertification by the Court Security Director.

(3)(B) **Post Disposition.** Upon final disposition of the case and after the time for appeal has expired or all appeals have been resolved, exhibits in the court's custody shall be disposed of or returned to the offering parties pursuant to paragraph (5)(A). The clerk of court, exhibit manager, or designee shall execute a receipt identifying the material taken, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record. If the time for filing appeals or requesting a rehearing or new trial has expired, exhibits may be withdrawn by filing a Notice of Intent to Withdraw Exhibits.

(3)(C) **Exhibits in the Custody of the Parties.** Unless otherwise ordered by the court, exhibits identified in paragraph (2)(A) shall remain in the custody of the parties until they are eligible for disposal pursuant to paragraph (5). Parties are responsible for preserving exhibits in the same condition as when they were first admitted into evidence. The clerk or exhibit manager shall record withdrawal of the exhibits.

(3)(D) **Access to Exhibits by Parties.** Parties may file a motion requesting access to an exhibit in the custody of the court or another party. Upon order of the court, the clerk of court, exhibit manager or designee, or party with custody of the exhibits shall promptly make available for examination exhibits, or original or true copies of the exhibits.

(4) **Appeals.** Exhibits and exhibit lists shall be provided upon appeal in accordance with the Rules of Appellate Procedure. Disposal of exhibits. After three months have expired from final disposition of the case and no appeals have been filed or requests for new trials or rehearing have been made, the clerk shall dispose of the exhibits as follows:

~~(4)(A) Property having value shall be returned to its owner or, if unclaimed, shall be given to the sheriff of the county or other law enforcement agency to be sold in accordance with Utah Code Section 24-3-103. The agency receiving the property shall furnish the court with a receipt that may be maintained with the exhibit custody tracking record or noted in the computer record.~~

~~(4)(B) Property having no value shall be destroyed by the clerk of the court who shall furnish the court with a certificate of destruction that may be maintained with the exhibit custody tracking record or noted in the computer record.~~

~~(4)(C) The exhibit manager shall record disposition of the exhibits.~~

(5) **Disposal of exhibits.** Parties may dispose of, and exhibit managers, clerks of court, or designees shall dispose of any exhibits in their custody 90 days after the time for appeal has expired, or the statute of limitations for post-conviction relief, including the time for appeal from post-conviction relief has expired, whichever is later.

(5)(A) Exhibits in the court's custody shall be disposed of as follows:

(5)(A)(i) Property having no monetary value shall be destroyed by the exhibit manager, clerk of court, or designee. The exhibit manager shall create a certificate of destruction including a description of the exhibit, the case and exhibit numbers, and the date and time of the destruction. The certificate of destruction shall be made a part of the court record.

(5)(A)(ii) Property having monetary value shall be returned to its owner or, if unclaimed, shall be given to the prosecuting agency, sheriff of the county, or other law enforcement agency to be sold in accordance with Utah Code, Title 24, Chapter 3. The receiving agency shall furnish the court with a receipt identifying the receiving agency, the exhibit received, and the date and time the exhibit was received. The receipt shall be made a part of the court record.

Rule 4-206. Exhibits.**Intent:**

To establish a uniform procedure for the receipt, maintenance and release of exhibits.

Applicability:

This rule shall apply to all trial court proceedings in courts of record and not of record, except small claims court.

Statement of the Rule:**(1) Prior to Trial.**

(1)(A) **Marking Exhibits.** Prior to trial, each party must mark all exhibits it intends to introduce by utilizing exhibit labels in the format prescribed by the clerk of court of the judicial district in which the trial is located. Labels or tags must include, at a minimum, a case number, exhibit number/letter, and an appropriate party designation. With approval of the court, a photograph may be offered by the submitting party as a representation of the original exhibit.

(1)(B) **Digital Exhibits.** Digital exhibits must be marked as provided in paragraph (1)(A) and submitted to the court as prescribed by the clerk of court of the judicial district in which the trial is located. Exhibits should not be eFiled.

(2) During Trial.

(2)(A) **Custody of the Parties.** During the trial, bulky and sensitive exhibits, and exhibits that require law enforcement chain of custody, will remain in the custody of the party offering the exhibit. Such exhibits include, but are not limited to: biohazards, controlled substances, firearms, ammunition, explosive devices, pornographic materials, jewelry, poisonous or dangerous chemicals, intoxicating liquors, money or articles of high monetary value, counterfeit money, original digital storage media, and documents or physical exhibits of unusual bulk or weight. The clerk of court or designee must list these exhibits in the exhibit list and note that the original exhibit is in the custody of the party.

(2)(B) **Custody of the Court.** Physical exhibits received during trial, other than those in paragraph (2)(A), must be placed in the custody of the clerk of court or designee. Digital exhibits received as evidence by the court during the trial shall be stored electronically in accordance with paragraph (2)(C). The clerk of court or designee must list all exhibits in the exhibit list, and the list shall be made a part of the court record. An exhibit list may be the court's designated case management system or a form approved by the Judicial Council.

(2)(C) Secured Storage.

(2)(C)(i) Upon daily adjournment, the clerk of court or designee must compare the exhibit list with the exhibits received that day. Digital exhibits received under paragraph (2)(B) shall be stored electronically in a manner meeting the requirements outlined in paragraph (3)(A)(ii). Physical exhibits received under paragraph (2)(B) must be stored in an envelope or container, marked with the case number, and stored in a secured storage location that meets the requirements outlined in paragraph (3)(A)(ii).

(2)(C)(ii) Exhibits may be stored in a temporary secured location for no more than 72 hours, provided the temporary location is sufficient to prevent access by unauthorized persons, and the location is secured with a key lock, combination lock, or electronic lock. Access to the temporary storage location shall be limited to the clerk of court, judge, or a designee.

(3) After Trial.

(3)(A) **Pending Disposition.** Exhibits in the court's custody pursuant to paragraph (2)(B) may not be taken from the custody of the clerk of court or designee until final disposition of the case, except upon order of the court and execution of a receipt that identifies the material, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record.

(3)(A)(i) **Exhibit Manager.** The clerk of court shall appoint an exhibit manager with responsibility for the security, maintenance, documentation of the chain of custody, and disposition of exhibits. The clerk of court may also appoint a person to act as exhibit manager during periods when the primary exhibit manager is absent. Unaccompanied or unauthorized access to secured storage locations by anyone other than the exhibit manager, acting exhibit manager, or the clerk of court is prohibited without a court order.

(3)(A)(ii) **Secured Storage Location.** Each court must provide physical and electronic secured storage locations within their facility for storing exhibits retained by the court under subsection (2)(B). The physical secured storage location must be sufficient to prevent access from unauthorized persons, secured with a key lock, combination lock, or electronic lock, and protected from theft or damage. The electronic secured storage location should be sufficient to prevent access from unauthorized persons. Prior to use, physical and electronic secured storage locations must be certified by the Court Security Director. Requests for certification must be made in writing and shall fully describe the secured storage location, local access procedures, and security controls. Any changes to the location, access procedures, or security controls require recertification by the Court Security Director.

(3)(B) **Post Disposition.** Upon final disposition of the case and after the time for appeal has expired or all appeals have been resolved, exhibits in the court's custody shall be disposed of or returned to the offering parties pursuant to paragraph (5)(A). The clerk of court, exhibit manager, or designee shall execute a receipt identifying the material taken, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record.

(3)(C) **Exhibits in the Custody of the Parties.** Unless otherwise ordered by the court, exhibits identified in paragraph (2)(A) shall remain in the custody of the parties until they are eligible for disposal pursuant to paragraph (5). Parties are responsible for preserving exhibits in the same condition as when they were first admitted into evidence.

(3)(D) **Access to Exhibits by Parties.** Parties may file a motion requesting access to an exhibit in the custody of the court or another party. Upon order of the court, the clerk of court, exhibit manager or designee, or party with custody of the exhibits shall promptly make available for examination exhibits, or original or true copies of the exhibits.

(4) Appeals. Exhibits and exhibit lists shall be provided upon appeal in accordance with the Rules of Appellate Procedure.

(5) Disposal of exhibits. Parties may dispose of, and exhibit managers, clerks of court, or designees shall dispose of any exhibits in their custody 90 days after the time for appeal has expired, or the statute of limitations for post-conviction relief, including the time for appeal from post-conviction relief has expired, whichever is later.

(5)(A) Exhibits in the court's custody shall be disposed of as follows:

(5)(A)(i) Property having no monetary value shall be destroyed by the exhibit manager, clerk of court, or designee. The exhibit manager shall create a certificate of destruction including a description of the exhibit, the case and exhibit numbers, and the date and time of the destruction. The certificate of destruction shall be made a part of the court record.

(5)(A)(ii) Property having monetary value shall be returned to its owner or, if unclaimed, shall be given to the prosecuting agency, sheriff of the county, or other law enforcement agency to be sold in accordance with Utah Code, Title 24, Chapter 3. The receiving agency shall furnish the court with a receipt identifying the receiving agency, the exhibit received, and the date and time the exhibit was received. The receipt shall be made a part of the court record.

Effective May/November 1, 20__

TAB 5

Human Resources Policies and Procedures

NOTES: A list of items for the full committee's consideration is included in the packet. Following resolution of those items, the HR policy manual should be ready for the Judicial Council to review and approve.

Brent Johnson and Heidi Anderson will be available to weigh in on two brief issues.

HR Policy Items for Committee & Council

Committee Member	Policy Reference	Policy Text / Reason for Committee and/or Council Discussion
Judge Derek Pullan	HR04-4(6) For discussion	<p>“Management is encouraged to build an interview panel of at least two or more subject matter expert panelists with as much diversity as reasonably possible in terms of gender, age, race/ethnicity, or other classes protected by state or federal law.”</p> <p>Listing each protected class might be daunting to management. In practice, gender is the easiest class to diversify, followed by age and race/ethnicity. The other classes are increasingly more difficult to diversify on a panel in practice. This probably needs to be a matter addressed in training to management.</p>
Judge Derek Pullan	HR04-15(4)(a) For discussion	<p>“A hiring manager may choose not to hire a candidate if the background check contains any of the following: (a) A felony conviction for a crime such as violence against people or destruction of property, illegal drug or alcohol use, theft of identity or property, fraud, embezzlement, or other similar offenses including but not limited to those identified in UCA §76-6 and §76-6a, UCA §76-8, UCA §76-9 and UCA §76-10.”</p> <p>Sought input from Brent Johnson on whether the addition of code references here helps clarify intent of the policy without making it either too broad or too narrow.</p>
Judge Derek Pullan	HR05-3 For discussion	<p>“(a) Employees hired into the IT department prior to January 1, 2019, and who had already attained career service status are grandfathered as career service employees and will retain career service unless they choose to move into a different career service exempt position.</p> <p>(b) If a grandfathered IT employee chooses to move into a different career service exempt position, the employee’s career service rights end on the effective date of the move to the new position.”</p> <p>Need to discuss with Heidi Anderson, Director of Information Technology, regarding purposes of</p>

		making IT positions/employees exempt from career service.
Judges Brian Cannell & Michelle Heward	HR06-6(1) Mention only	<p>“An employee ... promoted to a job with a salary range maximum exceeding the employee’s current salary range maximum shall receive a wage increase of at least 5%.”</p> <p>It is important to call out an existing problem this policy would fix. Currently, the Courts’ HR policy places a limit of 11% on any current employee increase, even for promotion. This new policy is silent on a limit, and only requires a <i>minimum</i> of a 5% increase when an employee is promoted to a new job meeting criteria for promotion.</p>
Judges Brian Cannell & Michelle Heward	HR06-9 For discussion	<p>“Conversion from Career Service Status to Career Service Exempt Status.” [entire policy not included due to length]</p> <p>This comes from an Executive Branch rule put in place to implement UCA §63F-1-106 and UCA §67-19-15.1(4) which do not apply to the judicial branch. However, the intent of the bills that passed to enact these codes and rules are the same: to develop a tool for converting career service positions to career service exempt, particularly for the Department of Technology Services. Should the Judicial Council at any point down the road find a need to convert a position or group of positions to career service exempt, we would already have a tool in place to get the ball rolling.</p> <p>The draft language brought up for discussion by Judge Pullan above in HR05-3 is also relevant to this piece of policy.</p>
Judges Brian Cannell & Michelle Heward	HR07-1(10) Mention only	<p>“After four months cumulative leave in a 24 month period, the employee may be separated from employment regardless of paid leave status unless prohibited by state or federal law. Decisions to separate the employee shall be made by the court level administrator in consultation with HR.”</p> <p>Judges Cannell and Heward support this policy shift but recognize it is significant and should have committee and council member attention drawn to it. This policy has been in place successfully at the Executive Branch for many years and if adopted, could solve a problem faced too often by judicial</p>

		<p>branch management. There are times when employees, unfortunately, try to “game the system” citing health reasons but wanting to retain at least a portion of their regular paychecks and/or health care benefits without working on any kind of reliable schedule for months and even years on end. Due to an ability to go on and off FMLA and accrue just enough leave to use a little more during a pay period, employees do have the ability to “abuse the system” and hold management captive to keep them occupying their position without producing the work the Courts pays for by funding the position.</p> <p>In practice, this policy does appropriately prevent management from counting protected leave such as FMLA against this four-month threshold, so in most cases an employee would still be gone for a cumulative of seven months (three FMLA plus four additional months) before separation. Still, this is a huge improvement on what management experiences too often today and it has a negative morale impact on <u>all</u> employees, not just management.</p>
Judges Brian Cannell & Michelle Heward	HR07-21 Mention only	<p>“Postpartum Recovery Leave” [full policy not included due to length]</p> <p>This is a new policy intended to comply with recently passed legislation and now found in UCA §49-11-1202. It mirrors the language adopted by the Exec Branch for the same purpose. This will not likely need further discussion but should be brought up for awareness of the full committee and council.</p>
Rob Rice	HR09-8 Mention only	<p>The Social Media policy is significantly pared down from current HR policy 560 largely due to many pieces being covered in HR09-7 governing acceptable use of information technology resources.</p>
Judge Brian Connors	HR10-5 Mention only	<p>HR10-5(1)(c): The employee shall agree to repay any assistance received if the employee resigns from employment with the judicial branch within one year of completing educational work for which reimbursement was received.</p> <p>This is a change from the current two-year threshold which is unpopular with Finance and many members of management. We do not have a troubling tendency of employees leaving the branch</p>

		right after receiving education assistance. Leaving a provision that allows us to collect back in egregious cases is helpful, but not worth going back two years.
Judge Brian Connors	HR13-1 Mention only	Specifically calling out law student externs in our Volunteer Programs section because those are the most common volunteers we have at the Courts.
Judge Samuel Chiara	HR15-1(3)(a) Discussion	Consider adding “political views” as a basis to the list of other types of harassment prohibited by policy.
Judge Samuel Chiara	HR15-4(1) Mention only	In consultation with HR, management may review minor allegations of a policy violation, avoiding the need for HR to launch formal investigations into every instance of someone using a swear, forgetting to invite someone to lunch, taking a relatively benign joke the wrong way in a single instance, etc.
Judge Samuel Chiara	HR15-4(3) Mention only	Formal investigative procedures will allow a recording so long as the investigator and the interviewee are made aware of a recording taking place.