

**UTAH JUDICIALCOUNCIL
POLICY AND PLANNING COMMITTEE
MEETING MINUTES**

Webex video conferencing
June 4, 2021: 12 pm -2 pm

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Derek Pullan, <i>Chair</i>	•		Heidi Anderson
Judge Brian Cannell		•	Paul Barron
Judge Samuel Chiara	•		Cathy Dupont
Judge David Connors	•		Meredith Mannenbach
Judge Michelle Heward	•		Jordan Murray
Mr. Rob Rice	•		Karl Sweeney
			Nancy Sylvester
			STAFF:
			Keisa Williams
			Minhvan Brimhall

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Connors welcomed the committee to the meeting. The committee considered the minutes from the May 7, 2021 meeting. With one minor correction, Rob Rice moved to approve the minutes as drafted. Judge Heward seconded the motion. The motion passed unanimously.

(2) URCP Rule 5 and CJA amendments – programming prioritization for “undeliverable” emails:

- URCP 5. Service and filing of pleadings and other papers.
- CJA 3-306.05. Interpreter removal, discipline, and formal complaints.
- CJA 4-103. Civil calendar management.
- CJA 4-202.04. Request to access or classify a record associated with a case.
- CAJ 4-202.05. Request to access or classify an administrative record.
- CJA 4-202.06. Response to request to access or classify a court record.
- CJA 4-202.07. Appeals.
- CJA 4-510.05. Referral of civil actions.
- CJA 4-701. Failure to appear.

Ms. Sylvester: The amendments to URCP 5 were approved by the Supreme Court with a November 1st effective date. Nathanael Player has expressed concerns from a self-represented party perspective. The URCP Committee will be considering additional amendments based on those comments.

Ms. Williams: The CJA rules are not urgent, so those can wait. Because of the November 1st effective date, the more urgent issue is the programming necessary to resolve the undeliverable email issue. Mr. Barron and I met with the clerks of court. They would prefer to create group email addresses (rather than using individual clerk email addresses) to receive undeliverable emails to ensure the account is monitored appropriately. Using personal email addresses would become an issue if the person was on leave or was out sick, and would also subject them to a barrage of emails from litigants.

Mr. Barron: The programming estimate to implement the group email address is \$75,000 dollars. Giving all of the

current and new group emails full send capability would cost roughly an additional \$5,400 per year. There are approximately 60 current accounts at a cost \$90 dollars per year. All of those may not need full send capability. Some of the smaller courts could use their regular generic court email address for this purpose.

Ms. Anderson: I believe many court locations already have a group email account that they could utilize, but I don't want to assume that that account is what they would prefer to use. It might be helpful to confirm the email addresses for each court location. It should be a location-specific email address that multiple people can access. We wouldn't want it to be tied to an individual.

Judge Pullan: Are there ways we could do this cheaper?

Mr. Barron: If we did not have to associate a team email address with each existing user, and instead just sent the returns to the email address in each clerk's profile, it would lower the cost to approximately \$37,000. That cost covers removing the link to the generic 'courts.gov' email account where everything is currently sent and getting it down to a local level to allow review of local returns.

We could also task someone with monitoring the existing, statewide generic account and sending the undeliverables out to local courts as they're received.

Ms. Anderson: Is there any savings with postage to offset these costs?

Mr. Sweeney: We've spent \$9,100 on district court postage (not witness related) so far this year. We've spent \$247,000 on jury and witness postage. We can pull the total amount spent last year to get a clearer picture of annual costs. I think the recent reductions will offset the programming expense somewhat.

Ms. Sylvester: Is January 1, 2022 a more realistic effective date on URCP 5? The Supreme Court approved the rule yesterday, but the URCP committee will be revising it again to address Mr. Player's concerns, so there is an opportunity to change the effective date.

Mr. Barron: We could try to meet the December release schedule.

Following discussion, the committee determined that assigning an employee to monitor the statewide, generic account would not result in cost savings and that the group email accounts were preferable to individual accounts.

Judge Pullan: The Judicial Council will have to approve and prioritize the \$75,000 dollars.

After further discussion, Judge Connors moved to add this item to the next Judicial Council agenda for a discussion about funding with a recommendation that it be approved, consistent with the effective date of URCP Rule 5. Mr. Rice seconded the motion and it passed unanimously.

Mr. Sweeney will provide Ms. Williams with last year's postage amounts for consideration at the Judicial Council meeting.

(3) CJA 4-202.02. Records classification:

Ms. Williams: A working group has been preparing a new form on petitions to determine competency. The form has two parts: 1) the petition without confidential information, and 2) a statement in support that includes confidential information. The proposed amendment would ensure that the statements in support are classified as private. Parties, attorneys of record, and anyone with a court order can access private records pursuant to CJA 4-202.03(3).

Mr. Barron: We may need to create a separate document type, but that's easy to do. We would also need to ensure that the information is communicated to attorneys through their service providers.

Judge Heward moved to approve the rule as drafted. Mr. Rice seconded the motion and it passed unanimously.

(4) Grant policies and procedures:

- CJA 3-411. Grant management.
- Procedural workflow for grant application approval in the Utah Courts

Mr. Sweeney: We corresponded with several states to compile the material in the packet, with a lot of input from Kentucky, Maryland, and Nevada. The framework is mostly modeled after Kentucky. We intentionally kept it broad, understanding that there may be things the Committee wants to cut out or move to a different document. We included provisions based on guidance from this committee related to the need for guardrails, as well as guidance from the budget and fiscal management committee.

Mr. Murray: We recognize that this represents a considerable expansion of the rule as it is currently written. We've built in approximately nine different guardrails.

Other guardrails include:

- The rule is applicable to all agreements, including memorandums of understanding and recipient awards, rather than leaving it up to the applicant to decide whether their project/opportunity qualifies as a "grant."
- The grant application now requires the applicant to obtain approval from the general counsel's office, the purchasing department, and the IT department, to ensure there is an early vetting process.
- The grant application must be submitted 8 weeks prior to the deadline to allow us enough time to do our due diligence in an unhurried way.
- The collaborative impact assessment is meant to elucidate any incremental impacts and identify capacity concerns.
- References to mandatory fiscal policies outlined in the Court's accounting manual have been incorporated, including requirements for positions created with grant funds or supported by grant dollars.
- A master compliance calendar must be maintained.
- Deliverables must be submitted to the grants coordinator and finance director for review 10 days prior to the deadline.
- The grants coordinator must complete an annual compliance self-assessment for all grants in the court's portfolio.
- The grants coordinator will provide quarterly reports on existing grant drawdowns, any potential future grants, and grants that were denied at the governing body level (didn't make it out of the initial review process).
- Renewals on eligible formula grants must be reviewed and approved.

Mr. Murray reviewed changes to the process diagram.

After considerable discussion, committee members made the following observations, amendments, and/or recommendations:

- Under grant criteria:
 - "Criteria" should be changed to "factors to consider" or something similar.
 - In line 111, change "essential" to, "does the grant advance the mission of the courts," or "does the grant contribute to accomplishing the mission of the courts."
 - Address whether the grant is steering court policy or whether the courts are steering the grant money.
 - The criteria should include an explanation regarding existing resources and other alternative sources of funding.
 - The applicant must include a plan for what happens when the grant money runs out and be clear if they are asking for ongoing funding to maintain its existence long-term. Does the grant expose

the court to potential long-term unfunded obligations, and if so, what is the plan to meet those long-term unfunded obligations?

- Recommend striking paragraph (1)(B). The 2nd paragraph following the courts' mission says, "assist the courts in solving problems and promoting innovations that cannot be accomplished with existing resources." That may be too specific and could be construed as limiting the overall purpose of the rule. Innovations are just one aspect of the mission. Additionally, we may have existing resources for a particular issue, but want to increase those resources.
- At what level of the organization should we allow a person to become a grant applicant? Who can apply for a grant? Is it any employee? We want to avoid different employees, boards, or departments competing for the same money.
- Add a statement toward the beginning of the rule making it clear that no one may make an application for outside funding without complying with this process.
- Include the CJA 3-105 discussion early in the process

Mr. Murray: A future project is to develop a web page on the Intranet managed by the grants coordinator. It would include grant opportunities for the courts and a status update bar or progress tab, showing which grants are currently being considered, including funding sources, deliverables, and what area of the courts the applicants are looking to enhance. That is one way to limit competing applications.

After further discussion, the Committee asked Mr. Murray and Mr. Sweeney to make revisions based on the Committee's feedback and meet with individual members about the revised draft prior to the next meeting.

(5) CJA 11-201. Senior judges:

Ms. Dupont: Policy and Planning reviewed these rules last October and formed a working group. The working group coordinated with the Supreme Court and the senior judges. The proposed amendments reflect those changes. The working group recommends seeking expedited approval to help facilitate the use of senior judges to address the jury backlog.

After discussion, the committee made the following comments/amendments:

- Rule 3-108, in (2)(F), remove "high priority cases"
- Lines 67-68, do we need to get the Chief Justice's approval every time the supervising judge assigns a case to a tax judge? Could we use a standing order?
- Rule 3-113, line 25, change "secretarial services" to "administrative services"

Judge Chiara moved to forward the rules to the Judicial Council for expedited approval. Mr. Rice seconded the motion and it passed unanimously.

OLD BUSINESS/NEW BUSINESS: After discussion, the committee canceled the July 2021 meeting due to the July 4th holiday. The next meeting will be August 6.

ADJOURN:

With no further items for discussion, the meeting adjourned at 2:07 p.m. without a motion. The next meeting will be on August 6, 2021 at 12 PM via Webex video conferencing.