

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

August 6, 2021 – 12:00 p.m. to 2:00 p.m.

Webex

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Pullan
12:05	Rules back from Public Comment: <ul style="list-style-type: none"> • CJA 1-205. Standing and ad hoc committees • CJA 3-419. Office of Fairness and Accountability • CJA 4-202.02. Records classification • CJA 4-206. Exhibits • CJA 4-401.02. Possession and use of portable electronic devices 	Action	Tab 2	Keisa Williams
12:20	CJA 3-117. Committee on Court Forms	Action	Tab 3	Keisa Williams
12:30	CJA 2-101. Rules for the conduct of Council meetings CJA 6-101. The Board of District Court Judges CJA 7-101. Juvenile Court Board, Executive Committee and Council Representatives CJA 9-101. Board of Justice Court Judges CJA 5-101. The Board of Appellate Court Judges	Action	Tab 4	Keisa Williams
2:00	Adjourn			

2021 Meetings:

September 3, 2021

October 1, 2021

November 5, 2021 (all day)

December 3, 2021

TAB 1

Minutes

June 4, 2021

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

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

DRAFT

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.

TAB 2

Rules back from Public Comment

- CJA 1-205. Standing and ad hoc committees
- CJA 3-419. Office of Fairness and Accountability
- CJA 4-202.02. Records classification
- CJA 4-206. Exhibits
- CJA 4-401.02 Possession and use of portable electronic devices

Notes:

CJA 1-205. Standing and ad hoc committees. Amends membership on the Standing Committee on Pretrial Release and Supervision.

- No comments
- Judge Eddington retired. The Board of Juvenile Court Judges recommends eliminating the juvenile judge member position because the issues do not relate to juvenile court. See highlighted edit.

CJA 3-419. Office of Fairness and Accountability. Establishes the Office of Fairness and Accountability, and identifies the duties of the Director and the objectives of the Office.

- 13 comments
- Mr. Puente is working on revisions and will bring them to the September P&P meeting for consideration.

CJA 4-202.02. Records classification. Clarifies that minors' names are only public in criminal cases if the minor is a party. This is not a change, the language is simply intended to clear up confusion on the issue.

- No comments

CJA04-0206. Exhibits. Significantly bolsters uniform procedures for the marking, receipt, maintenance, and release of exhibits. Provides courts with the discretion to extend applicability to any proceeding in which exhibits are introduced.

- 2 comments
- Recommend removing reference to specific section of the Code. See highlighted edit.

CJA04-0401.02. Possession and use of portable electronic devices. Allows JPEC continued use of recordings to evaluate the performance of justice court judges subject to a basic evaluation.

- No comments

Fwd: Notice of Proposed Amendments to Utah Code of Judicial Administration

2 messages

Chris Palmer <chrisp@utcourts.gov>
To: Keisa Williams <keisaw@utcourts.gov>

See below for some feedback and I am not sure how to answer the retention question? I know it refers to the procedure rules but I am not sure how to tell when/how long

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

From: Daniel Meza Rincon <danielmr@utcourts.gov>
Date: Wed, Jun 2, 2021 at 5:06 PM
Subject: Fwd: Notice of Proposed Amendments to Utah Code of Judicial Administration
To: Chris Palmer <chrisp@utcourts.gov>

Hi Chris,

It's been a minute since we've chatted. I hope you're doing well.
I know you are helping with amending the exhibits rule so I wanted to reach out to you with a couple of concerns. (let me know if I need to submit them in the comment section)

As I review the new rule, with the last rule shared with the group by Loni, and the old rule.
I noticed that in the new rule under (3)(b) **Exhibit custody post disposition** it removed any mention of the time for appeals expiring.
I wonder if this would conflict with subsection (4). It sort of gives the impression that upon final disposition of a case exhibits can be disposed of, when we really don't know whether the proceeding elapse.

Another concern I have is the exhibit list and exhibit log.
Previously, the rule asked that after the JA would give exhibits to the exhibit manager to be placed in the evidence room/secure storage
That the Exhibit manager record receipt, location, date, etc. [this is the transfer from in court clerk to exhibit manager]

~~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.~~

I don't see mention of this under 2(c) and wonder if that would present any issues.

I'm thinking that in the new rule this exhibit log would be the documentation of the chain of custody?

(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, 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 manager, acting exhibit manager, or the clerk of court is prohibited without a court order.

I guess my concern is that I don't want this to be interpreted as if exhibit managers don't have to do what the previous rule required of them (record receipt and location of exhibits once placed in because really they should still do so? It's just perhaps been condensed to "documentation of the chain of custody"?)

Maybe I am worrying about nothing lol, but I wanted to share my concerns.

I'm for sure concerned about subsection (3)(b)

I'm concerned but not extremely about the exhibit log.

Thank you for listening to me :)

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

From: Utah Court Notices <notices@utcourts.gov>
Date: Wed, Jun 2, 2021 at 2:01 PM
Subject: Notice of Proposed Amendments to Utah Code of Judicial Administration
To: <utahstatebarnews@usblists.utahbar.org>

The Utah Judicial Council invites comments to the following proposed amendments. The comment period will close **July 17, 2021**.

UTAH CODE OF JUDICIAL ADMINISTRATION

CJA01-0205. Standing and ad hoc committees (AMEND). Amends membership on the Standing Committee on Pretrial Release and Supervision.

CJA03-0419. Office of Fairness and Accountability (NEW). Establishes the Office of Fairness and Accountability, and identifies the duties of the Director and the objectives of the Office.

CJA04-0202.02. Records classification (AMEND). Clarifies that minors' names are only public in criminal cases if the minor is a party. This is not a change, the language is simply intended to clarify.

CJA04-0206. Exhibits (AMEND). Significantly bolsters uniform procedures for the marking, receipt, maintenance, and release of exhibits. Provides courts with the discretion to extend applicability of the rules to exhibits.

CJA04-0401.02. Possession and use of portable electronic devices (AMEND). Allows JPEC continued use of recordings to evaluate the performance of justice court judges subject to a basic standard of review.

How to View Redline Text of the Proposed Amendment:

To view approved rules and submit comments, click on this link to: <http://www.utcourts.gov/utc/rules-comment/>, then click on the rule number.

How to Submit Comments:

You can comment and view the comments of others by clicking on the "CONTINUE READING" link associated with each body of rules. After clicking on the "CONTINUE READING" link, you will be taken to a comment page which need not be your real address. The comment website is public. Each comment must be approved by the site administrator before it will show on the public website. Although all comments will be posted, if you have any questions, please contact the committee staff person. The list of committees and staff persons may be found at: <https://www.utcourts.gov/committees/>.
Thank you.

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on “Continue Reading.” To submit a comment, scroll down to the “Leave a Reply” section, and type your comment in the “Comment” field. Type your name and email address in the designated fields and click “Post Comment.”

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

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Posted: June 2, 2021

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Code of Judicial Administration – Comment Period Closed July 17, 2021

CJA01-0205. Standing and ad hoc committees

(AMEND). Amends membership on the Standing Committee on Pretrial Release and Supervision.

CJA03-0419. Office of Fairness and Accountability

(NEW). Establishes the Office of Fairness and Accountability, and identifies the duties of the Director and the objectives of the Office.

CJA04-0202.02. Records classification (AMEND). Clarifies that minors’ names are only public in criminal cases if the minor is a party. This is not a change, the language is simply intended to clear up confusion on the issue.

CJA04-0206. Exhibits (AMEND). Significantly bolsters uniform procedures for the marking, receipt, maintenance, and release of exhibits. Provides courts with the discretion to extend applicability to any proceeding in which exhibits are introduced.

CJA04-0401.02. Possession and use of portable electronic devices (AMEND). Allows JPEC continued use of recordings to evaluate the performance of justice court judges subject to a basic evaluation.

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

CATEGORIES

- **-Alternate Dispute Resolution**
- **-Code of Judicial Administration**
- **-Code of Judicial Conduct**
- **-Fourth District Court Local Rules**
- **-Licensed Paralegal Practitioners Rules of Professional Conduct**
- **-Rules Governing Licensed Paralegal Practitioner**
- **-Rules Governing the State Bar**

This entry was posted in [-Code of Judicial Administration](#), [-Code of Judicial Administration](#), [CJA01-0205](#), [CJA03-0419](#), [CJA04-0202.02](#), [CJA04-0206](#), [CJA04-0401.02](#).

« [Rules of Evidence – Comment Period Closed July 22, 2021](#)

[Code of Judicial Administration – Comment Period Closed July 17, 2021](#) »

UTAH COURTS

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14 thoughts on “[Code of Judicial Administration – Comment Period Closed July 17, 2021](#)”

Daniel
June 2, 2021 at 3:11 pm

In Rule 3-419. Office of Fairness and Accountability
Line 103, perhaps eliminate the word “and” which appears right before “the communication”

Carob
June 2, 2021 at 3:21 pm

You have a choice to stand for the Dream that Martin Luther king Jr. and so many others fought so hard for. Or to take a knee for the unsustainable identity politics crowd. A crowd with a heirarchy that many of us don't fit into. Including myself a former foster child and a person of color. We are faced with defining diversity as simply a color or a gender of defining it based as individuals who ALL have something to bring to the table. It's a slippery slope embracing identity politics, and many who think “if I put my head down, and shut up will find they aren't. Do we really want separate graduation ceremonies by gender and race? What does that do to the mixed race children? Making them choose their oppressed side is teaching them to hate themselves. We had

- [-Rules of Appellate Procedure](#)
- [-Rules of Civil Procedure](#)
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- [-Rules of Evidence](#)
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progressed beyond this. If we are to END the very real systemic racism CRT is not the way to do it! People are not a monolith and should not be encouraged to be tribal. This shouldn't be political, I'm surprised at how many people in public office seem to hate America and its values. Our country is not perfect, but why would the corrupt ideas, teaching people they are victims, or they are inherently oppressive make it better. When I was a foster child in school, my teachers let me slip through the cracks, my social workers had very low expectations for me, because they are brainwashed by the bigotry of low expectations. That's what this bill does. It's not a conspiracy, one only needs to look at UC Davis who just segregated graduations. Or Washington State Evergreen College, who 5 years after deeply immersing itself in critical theory, is having a tough time hiring a dean. I get that Utahns want to be nice, that the LDS has a complicated racial history. But do you want to destroy this state? I moved here seeking refuge after being jumped by a BLM member who could have been related to me. Because I carried a sign on a street corner that said "character matters, they are using us" and they are. Slaves used to be told if they worked in the house they are better than those who worked in the field. And that colorism still goes on today. We end this with true compassion, with tough love. By saying you matter, you are capable we won't lower the standards so you can compete. We will instead hold you to the same expectations we hold our own children too. Because YOU can do it! Don't assume that because a person has more melanin they are less privileged. There are many African Americans who are successful. It's racist to make an exception based on race. Good or bad. As a mom from the hard places. It was made easy for me to fall down give up and do nothing of quality with my life I wanted more, and it was much harder than it needed to be but so worth it. No matter what pretty words surround CRT. It demands we look at EVERYTHING through the lens of race. You don't have to look hard to find things that CRT theorist Kimberlee Crenshaw says that no white person would dare. Our schools are already promoting Robin D Angelo who states "I've got no answers for mixed race families" I'm struck with the absurdity, that her words would be promoted. A middle school teacher the other day recommended I read "pedagogy of the oppressed" but why?! I'm not interested in reaffirming the narrow viewpoint that I'm limited due to my color or gender. I'm interested in learning how to overcome!

If you want to tackle systemic racism in our schools you have to learn to see us as individuals!

I ge

Joan

June 2, 2021 at 6:36 pm

For the love of all that is holy, please do not inflict this type of identity politics on our courts. The research on implicit bias has been thoroughly debunked by the Harvard prof that invented the assessment out of thin air. It is a concept which is indefensible with evidence but which will tear apart our society. These efforts

- CJA03-0111.06
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- CJA04-0205
- CJA04-0206

to condition us to distrust each other will end only in balkanization and worse racism. Do the right thing and refuse to take us down the path of Maoist China. Do not approve the Orwellian "Office of Fairness." Support the US Constitution and Martin Luther King's dream.

Trudi Watson
June 2, 2021 at 7:35 pm

Equity, Diversity and Inclusion is not the same as Equality under the law. Equality matters not what your race, ethnicity, sexual orientation/identity, socio-economic status, religion, education, the community you come from, or anything else. To implement Equity, Diversity and Inclusion is an attempt at institutionalizing racist and unjust policies. Utahns are against Critical Race Theory in any form.

Dave
June 3, 2021 at 7:41 pm

I agree. Very well put.

Debra
June 2, 2021 at 9:50 pm

CJA03-0419. Office of Fairness and Accountability (NEW). Establishes the Office of Fairness and Accountability, and identifies the duties of the Director and the objectives of the Office.

Justice is supposed to be blind, not participating in this false "equity" nonsense. Stop this. This is not helpful in any way. We already have documents that insure equal treatment, from the Declaration of Independence to the Fourteenth Amendment to the Civil Rights Act of 1964: that all Americans should be treated equally, regardless of race, color, creed, or religion. Stop following the radical left ideology. It is divisive and dangerous to our country.

Shirene Saddler
June 2, 2021 at 9:59 pm

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- CJA04-0704
- CJA04-0801
- CJA04-0901
- CJA04-0902
- CJA04-0903
- CJA04-0904
- CJA04-0905
- CJA04-0906
- CJA04-0907
- CJA05-0101
- CJA05-201
- CJA06-0102
- CJA06-0303
- CJA06-0401
- CJA06-0402
- CJA06-0501
- CJA06-0503
- CJA06-0504
- CJA06-0505
- CJA06-0506
- CJA06-0506
- CJA06-0507
- CJA06-0601
- CJA07-0101

I'm quite disturbed at the language in the new "fairness" rules. Despite the legislature specifically speaking out against Critical Race Theory your proposed rules embrace the false notion of implicit and inherent bias. CRT has no place in the UTAH Judicial rules and education. Please remove all references that are based in CRT.

David Sharette
June 2, 2021 at 10:03 pm

It looks like you are suggesting that you disqualify judges or juries based on their race. That is racism. Please reconsider.

Michael Andersen
June 2, 2021 at 10:18 pm

CJA03-0419. Office of Fairness and Accountability

This is vile. Positions in the government shouldn't be filled to fit quotas for race, sex, or other categories. Calling this the "Office of Fairness and Accountability" reeks of the same deliberately hypocritical stench of the "Ministry of Truth" in 1984.

Irma
June 3, 2021 at 7:01 am

When the color of the skin determines punishment or absolution for crimes or misdemeanors committed All Laws cease to exist!! This ideology is a most Racist, Discriminatory, and Pernicious ideology! It is inconceivable that government which is the guardian to secure the rights of The People can allowed such disparaged, unfounded and Unjust proposition!!

Tina Anderson
June 3, 2021 at 8:34 am

CJA03-0419. Office of Fairness and Accountability

Equal treatment under the law is ALL WE NEED. Please stop pandering and making this political.

- CJA07-0102
- CJA07-0301
- CJA07-0302
- CJA07-0302
- CJA07-0303
- CJA07-0304
- CJA07-0307
- CJA07-0308
- CJA09-0101
- CJA09-0103
- CJA09-0105
- CJA09-0107
- CJA09-0108
- CJA09-0109
- CJA09-0301
- CJA09-0302
- CJA09-109
- CJA10-1-203
- CJA10-1-602
- CJA11-0101
- CJA11-0102
- CJA11-0103
- CJA11-0104
- CJA11-0105
- CJA11-0106
- CJA11-0201
- CJA11-0202
- CJA11-0203
- CJA11-0301
- CJA11-0302
- CJA11-0303
- CJA11-0401
- CJA11-0501
- CJA14-0515
- CJA14-0721
- CJA_Appx_F
- CJA_Appx_I
- CJA_Appx_J
- CJC Terminology
- CJC01
- CJC02
- CJC02.11
- CJC02.12
- CJC02.3
- CJC03
- CJC03.7
- CJC04
- CJC04.1
- CJC05
- CJCApplicability
- Fourth District Local Rule 10-1-407
- LPP1.00
- LPP1.01
- LPP1.010
- LPP1.011
- LPP1.012
- LPP1.013

All we need are judges that can accurately identify:

- when an actual crime has been committed,
- who committed the crime
- and then divvy out a just punishment that fits the crime.

It does not matter what your race, ethnicity, sexual orientation/identity, or anything else...All that matters is – did you do the crime? If so, do the time.

K.A.

June 3, 2021 at 11:19 am

3-419

As an individual citizen, I support these changes.

It is well-known that the Bar has struggled to diversify its membership, and by extension, it has struggled to produce a diverse judiciary. Diversity in experience usually leads to diversity of thought. And diversity of thought leads to creative solutions to tough problems. Some of our biggest problems in Utah are related to criminal justice access and family law – two areas where a diverse set of voices will be able to nail down cultural blind spots.

Please approve the proposed changes. And please consider the source on the comments in opposition. (Most stem from Rep. Natalie Cline's constituency, which is why "Critical Race Theory" keeps being mentioned.)

Cato

June 5, 2021 at 2:12 pm

Giving the benefit of the doubt that this proposal is well-intentioned, I am concerned that the creation of an Office of Fairness and Accountability will not achieve its stated objectives as currently articulated.

After reading Isabel Wilkerson's "Caste: The Origin of Our Discontents," "race" may not be the most sound basis upon which to analyze social disparities; "caste" may be a more sound descriptor.

Furthermore, by embedding "race" – a socially-constructed concept with no scientific basis – into the Judicial Code, proposed Rule 3-419 may set a course for the judicial branch that may transport it further from meaningfully addressing existing power disparities that sustain ongoing inequities.

- LPP1.014
- LPP1.015
- LPP1.016
- LPP1.017
- LPP1.018
- LPP1.02
- LPP1.03
- LPP1.04
- LPP1.05
- LPP1.06
- LPP1.07
- LPP1.08
- LPP1.09
- LPP15-0701
- LPP15-0702
- LPP15-0703
- LPP15-0704
- LPP15-0705
- LPP15-0706
- LPP15-0707
- LPP15-0708
- LPP15-0709
- LPP15-0710
- LPP15-0711
- LPP15-0712
- LPP15-0713
- LPP15-0715
- LPP15-0716
- LPP15-0717
- LPP15-0718
- LPP15-0719
- LPP15-0720
- LPP15.01001
- LPP15.01101
- LPP15.01102
- LPP15.01103
- LPP15.01104
- LPP15.01105
- LPP15.01106
- LPP15.01107
- LPP15.01108
- LPP15.01109
- LPP15.01110
- LPP15.01111
- LPP15.01112
- LPP15.01113
- LPP15.01114
- LPP15.01115
- LPP15.01116
- LPP15.01117
- LPP15.01118
- LPP15.01119
- LPP15.01120
- LPP15.0301
- LPP15.0501
- LPP15.0502
- LPP15.0503
- LPP15.0505

My suggestion is to add “caste bias” along with “racial bias” at line 76, page 2 – (3)(A)(iii).

Ideological bias, although not currently a legally-protected status, is also a frequent basis for exclusion. Perhaps ideological bias could also be addressed here.

Finally, I ask that a lottery be used to populate the Judicial Council’s standing committees, and that service on these committees be made a condition of Bar membership. Like juries, such randomness would ensure more inclusive and representative committees than the current manner in which such committees are populated. Incumbents recruiting and promoting allies for committee service is not an optimal technique to effect fairness and accountability.

Nathan Phelps
June 9, 2021 at 12:57 pm

RE CJA04-0206. Exhibits (AMEND):

I realize that part 5(B) just restates the same procedure as before —property having value should be turned over for disposal under the procedures described in Title 24, Chapter 3 of the Utah Code. But that chapter (and title) only ostensibly applies property that was seized by law enforcement to begin with. For example, I do not see how that Chapter of the code could apply in most civil cases. Nor would it seem to apply to property in a criminal case offered by the defendant.

I suggest the following alternative language:

Property having monetary value shall be returned to its owner or, if unclaimed, shall be disposed of in accordance with Utah Code, Title 24, Chapter 3 (“Forfeiture and Disposition of Property Act”) or Title 67, Chapter 4a (“Revised Uniform Unclaimed Property Act”) as appropriate. 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.

- LPP15.0506
- LPP15.0508
- LPP15.0509
- LPP15.0510
- LPP15.0511
- LPP15.0512
- LPP15.0513
- LPP15.0514
- LPP15.0515
- LPP15.0516
- LPP15.0517
- LPP15.0518
- LPP15.0519
- LPP15.0520
- LPP15.0522
- LPP15.0523
- LPP15.0525
- LPP15.0526
- LPP15.0527
- LPP15.0528
- LPP15.0529
- LPP15.0530
- LPP15.0531
- LPP15.0532
- LPP15.0533
- LPP15.0601
- LPP15.0602
- LPP15.0603
- LPP15.0604
- LPP15.0605
- LPP15.0606
- LPP15.0607
- LPP15.0901
- LPP15.0901
- LPP15.0902
- LPP15.0903
- LPP15.0904
- LPP15.0904
- LPP15.0905
- LPP15.0906
- LPP15.0908
- LPP15.0909
- LPP15.0910
- LPP15.0911
- LPP15.0912
- LPP15.0913
- LPP15.0914
- LPP15.0915
- LPP15.0916
- LPP2.01
- LPP2.03
- LPP3.01
- LPP3.03
- LPP3.04
- LPP3.05
- LPP4.01
- LPP4.02
- LPP4.03

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

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

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

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

Applicability:

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

Statement of the Rule:**(1) Standing Committees.**

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

- (1)(A)(i) Technology Committee;
- (1)(A)(ii) Uniform Fine Schedule Committee;
- (1)(A)(iii) Ethics Advisory Committee;
- (1)(A)(iv) Judicial Branch Education Committee;
- (1)(A)(v) Court Facility Planning Committee;
- (1)(A)(vi) Committee on Children and Family Law;
- (1)(A)(vii) Committee on Judicial Outreach;
- (1)(A)(viii) Committee on Resources for Self-represented Parties;
- (1)(A)(ix) Language Access Committee;
- (1)(A)(x) Guardian ad Litem Oversight Committee;
- (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;
- (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;
- (1)(A)(xiii) Committee on Pretrial Release and Supervision; and
- (1)(A)(xiv) Committee on Court Forms.

(1)(B) Composition.

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

- (1)(B)(i)(a) one judge from each court of record;
- (1)(B)(i)(b) one justice court judge;

- (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
- (1)(B)(i)(d) two court executives;
- (1)(B)(i)(e) two court clerks; and
- (1)(B)(i)(f) two staff members from the Administrative Office.
- (1)(B)(ii) The **Uniform Fine Schedule Committee** shall consist of:
- (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
- (1)(B)(ii)(b) three district court judges who have experience with a misdemeanor docket; and
- (1)(B)(ii)(c) four justice court judges.
- (1)(B)(iii) The **Ethics Advisory Committee** shall consist of:
- (1)(B)(iii)(a) one judge from the Court of Appeals;
- (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iii)(d) one juvenile court judge;
- (1)(B)(iii)(e) one justice court judge; and
- (1)(B)(iii)(f) an attorney from either the Bar or a college of law.
- (1)(B)(iv) The **Judicial Branch Education Committee** shall consist of:
- (1)(B)(iv)(a) one judge from an appellate court;
- (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iv)(d) one juvenile court judge;
- (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
- (1)(B)(iv)(f) one state level administrator;
- (1)(B)(iv)(g) the Human Resource Management Director;
- (1)(B)(iv)(h) one court executive;
- (1)(B)(iv)(i) one juvenile court probation representative;
- (1)(B)(iv)(j) two court clerks from different levels of court and different judicial districts;
- (1)(B)(iv)(k) one data processing manager; and
- (1)(B)(iv)(l) one adult educator from higher education.
- (1)(B)(iv)(m) The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.

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

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

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

- (1)(B)(vi)(a) one Senator appointed by the President of the Senate;
- (1)(B)(vi)(b) the Director of the Department of Human Services or designee;
- (1)(B)(vi)(c) one attorney of the Executive Committee of the Family Law Section of the Utah State Bar;
- (1)(B)(vi)(d) one attorney with experience in abuse, neglect and dependency cases;
- (1)(B)(vi)(e) one attorney with experience representing parents in abuse, neglect and dependency cases;
- (1)(B)(vi)(f) one representative of a child advocacy organization;
- (1)(B)(vi)(g) the ADR Program Director or designee;
- (1)(B)(vi)(h) one professional in the area of child development;
- (1)(B)(vi)(i) one mental health professional;
- (1)(B)(vi)(j) one representative of the community;
- (1)(B)(vi)(k) the Director of the Office of Guardian ad Litem or designee;
- (1)(B)(vi)(l) one court commissioner;
- (1)(B)(vi)(m) two district court judges; and
- (1)(B)(vi)(n) two juvenile court judges.
- (1)(B)(vi)(o) One of the district court judges and one of the juvenile court judges shall serve as co-chairs to the committee. In its discretion the committee may appoint non-members to serve on its subcommittees.

(1)(B)(vii) The **Committee on Judicial Outreach** shall consist of:

- (1)(B)(vii)(a) one appellate court judge;
- (1)(B)(vii)(b) one district court judge;
- (1)(B)(vii)(c) one juvenile court judge;

(1)(B)(vii)(d) one justice court judge; one state level administrator;
(1)(B)(vii)(e) a state level judicial education representative;
(1)(B)(vii)(f) one court executive;
(1)(B)(vii)(g) one Utah State Bar representative;
(1)(B)(vii)(h) one communication representative;
(1)(B)(vii)(i) one law library representative;
(1)(B)(vii)(j) one civic community representative; and
(1)(B)(vii)(k) one state education representative.
(1)(B)(vii)(l) Chairs of the Judicial Outreach Committee's subcommittees
shall also serve as members of the committee.

(1)(B)(viii) The **Committee on Resources for Self-represented Parties** shall
consist of:

(1)(B)(viii)(a) two district court judges;
(1)(B)(viii)(b) one juvenile court judge;
(1)(B)(viii)(c) two justice court judges;
(1)(B)(viii)(d) three clerks of court – one from an appellate court, one from an
urban district and one from a rural district;
(1)(B)(viii)(e) one representative from the Self-Help Center;
(1)(B)(viii)(f) one representative from the Utah State Bar;
(1)(B)(viii)(g) two representatives from legal service organizations that serve
low-income clients;
(1)(B)(viii)(h) one private attorney experienced in providing services to self-
represented parties;
(1)(B)(viii)(i) two law school representatives;
(1)(B)(viii)(j) the state law librarian; and
(1)(B)(viii)(k) two community representatives.

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

(1)(B)(ix)(a) one district court judge;
(1)(B)(ix)(b) one juvenile court judge;
(1)(B)(ix)(c) one justice court judge;
(1)(B)(ix)(d) one trial court executive;
(1)(B)(ix)(e) one court clerk;
(1)(B)(ix)(f) one interpreter coordinator;
(1)(B)(ix)(g) one probation officer;

- (1)(B)(ix)(h) one prosecuting attorney;
- (1)(B)(ix)(i) one defense attorney;
- (1)(B)(ix)(j) two certified interpreters;
- (1)(B)(ix)(k) one approved interpreter;
- (1)(B)(ix)(l) one expert in the field of linguistics; and
- (1)(B)(ix)(m) one American Sign Language representative.
- (1)(B)(x) The **Guardian ad Litem Oversight Committee** shall consist of:
- (1)(B)(x)(a) seven members with experience in the administration of law and public services selected from public, private and non-profit organizations.
- (1)(B)(xi) The **Committee on Model Utah Civil Jury Instructions** shall consist of:
- (1)(B)(xi)(a) two district court judges;
- (1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;
- (1)(B)(xi)(c) four lawyers who primarily represent defendants; and
- (1)(B)(xi)(d) one person skilled in linguistics or communication.
- (1)(B)(xii) The **Committee on Model Utah Criminal Jury Instructions** shall consist of:
- (1)(B)(xii)(a) two district court judges;
- (1)(B)(xii)(b) one justice court judge;
- (1)(B)(xii)(c) four prosecutors;
- (1)(B)(xii)(d) four defense counsel;
- (1)(B)(xii)(e) one professor of criminal law; and
- (1)(B)(xii)(f) one person skilled in linguistics or communication.
- (1)(B)(xiii) The **Committee on Pretrial Release and Supervision** shall consist of:
- (1)(B)(xiii)(a) two district court judges;
- ~~(1)(B)(xiii)(b) one juvenile court judge;~~
- ~~(1)(B)(xiii)(c)~~ (1)(B)(xiii)(b) two justice court judges;
- ~~(1)(B)(xiii)(d)~~ (1)(B)(xiii)(c) one prosecutor;
- ~~(1)(B)(xiii)(e)~~ (1)(B)(xiii)(d) one defense attorney;
- ~~(1)(B)(xiii)(f)~~ (1)(B)(xiii)(e) one county sheriff;
- ~~(1)(B)(xiii)(g)~~ (1)(B)(xiii)(f) one representative of counties;
- ~~(1)(B)(xiii)(h)~~ (1)(B)(xiii)(g) one representative of a county pretrial services agency;
- ~~(1)(B)(xiii)(i) one representative of the Utah Insurance Department;~~

~~(1)(B)(xiii)(j)~~ (1)(B)(xiii)(h) one representative of the Utah Commission on Criminal and Juvenile Justice;

~~(1)(B)(xiii)(k)~~ (1)(B)(xiii)(i) one commercial surety agent;

~~(1)(B)(xiii)(l)~~ (1)(B)(xiii)(j) one state senator;

~~(1)(B)(xiii)(m)~~ (1)(B)(xiii)(k) one state representative;

~~(1)(B)(xiii)(n)~~ (1)(B)(xiii)(l) the Director of the Indigent Defense Commission or designee;

(1)(B)(xiii)(m) one representative of the Utah Victims' Council;

(1)(B)(xiii)(n) one representative of a community organization actively engaged in pretrial justice issues;

(1)(B)(xiii)(o) one chief of police; and

(1)(B)(xiii)(p) the court's general counsel or designee.

(1)(B)(xiv) The **Committee on Court Forms** shall consist of:

(1)(B)(xiv)(a) one district court judge;

(1)(B)(xiv)(b) one court commissioner;

(1)(B)(xiv)(c) one juvenile court judge;

(1)(B)(xiv)(d) one justice court judge;

(1)(B)(xiv)(e) one court clerk;

(1)(B)(xiv)(f) one appellate court staff attorney;

(1)(B)(xiv)(g) one representative from the Self-Help Center;

(1)(B)(xiv)(h) the State Law Librarian;

(1)(B)(xiv)(i) the Court Services Director;

(1)(B)(xiv)(j) one representative from a legal service organization that serves low-income clients;

(1)(B)(xiv)(k) one paralegal;

(1)(B)(xiv)(l) one educator from a paralegal program or law school;

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

(1)(B)(xiv)(n) one representative from the Utah State Bar.

(1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each standing committee. Standing committees shall meet as necessary to accomplish their work. Standing committees shall report to the Council as necessary but a minimum of once every year. Council members may not serve, participate or vote on standing committees. Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions

and vote. All members designated by this rule may make motions and vote unless otherwise specified. Standing committees may form subcommittees as they deem advisable.

(1)(D) **Committee performance review.** At least once every six years, the Management Committee shall review the performance of each committee. If the Management Committee determines that committee continues to serve its purpose, the Management Committee shall recommend to the Judicial Council that the committee continue. If the Management Committee determines that modification of a committee is warranted, it may so recommend to the Judicial Council.

(1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight Committee, recognized by Section 78A-6-901, shall not terminate.

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad hoc committees may form sub-committees as they deem advisable. Ad hoc committees shall disband upon issuing a final report or recommendations to the Council, upon expiration of the time set for termination, or upon the order of the Council.

(3) **General provisions.**

(3)(A) **Appointment process.**

(3)(A)(i) **Administrator's responsibilities.** The state court administrator shall select a member of the administrative staff to serve as the administrator for committee appointments. Except as otherwise provided in this rule, the administrator shall:

(3)(A)(i)(a) announce expected vacancies on standing committees two months in advance and announce vacancies on ad hoc committees in a timely manner;

(3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from each prospective appointee and information regarding the prospective appointee's present and past committee service;

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective

reappointee's service on the committee, the attendance record of the prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

(3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council and report on recommendations received regarding the appointment of members and chairs.

(3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each committee. Whenever practical, appointments shall reflect geographical, gender, cultural and ethnic diversity.

(3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive terms on a committee unless the Council determines that exceptional circumstances exist which justify service of more than two consecutive terms.

(3)(C) **Expenses.** Members of standing and ad hoc committees may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as committee members.

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

Effective May/November 1, 20__20

Rule 3-419. Office of Fairness and Accountability**Intent:**

To establish the Office of Fairness and Accountability within the Administrative Office of the Courts.

To identify the objectives of the Office of Fairness and Accountability.

To identify the duties of the Director of the Office of Fairness and Accountability.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

(1) **Establishment of the Office.** The Office of Fairness and Accountability is established within the Administrative Office of the Courts to organize and lead the judiciary in examining and addressing processes and outcomes within the judicial system that contribute to or cause the unequal treatment of individuals based on factors such as race, gender, ethnicity, age, disability, socioeconomic status, religion, sexual orientation, marital status, veteran status, and any other status protected by law~~race, ethnicity, sexual orientation, or gender.~~

(2) Objectives.

(2)(A) The Office shall support the judiciary in its efforts to ensure that Utah courts are achieving the judiciary's mission to provide an open, fair, efficient, and independent system to advance access to justice under the law.

(2)(B) The Office shall work collaboratively with other offices, departments, judges, commissioners, court employees, boards of judges, and Judicial Council standing committees.

(2)(C) The Office shall advance efforts to eliminate bias from court operations, promote equal access to the court, support efforts to diversify the bar and bench, and inspire a high level of trust and public confidence in the Judiciary.

(3) Director Duties. The Director of the Office of Fairness and Accountability shall:

(3)(A) Create and operationalize a strategic plan that includes the following areas of focus:

(3)(A)(i) Identifying and addressing racism and other forms of bias within the judicial system by:

(3)(A)(i)(a) Engaging in community outreach and serving as a liaison between the courts and other agencies and organizations;

(3)(A)(i)(b) Networking with community partners such as the Utah Commission on Criminal and Juvenile Justice, the Utah Center for Legal Inclusion, Diversity Offices, universities, and community organizations; and

(3)(A)(i)(c) Partnering on access to justice initiatives and projects; ~~and~~

~~(3)(A)(i)(d) Developing a speakers' bureau to reach K-12 schools statewide.~~

(3)(A)(ii) Conducting data collection and research through:

(3)(A)(ii)(a) Collaboration with national experts and thought leaders to identify, gather and analyze relevant data; and

(3)(A)(ii)(b) Coordination with Court Data Services and Information Technology Services to capture and report relevant data.

(3)(A)(ii)(c) ~~A special area of focus shall be collecting and analyzing~~ Collection and analysis of jury information, including juror selection, service, and pools.

(3)(A)(iii) Coordinating with ~~the Utah the~~ Judicial ~~Education Department~~ Institute to develop education curriculum and training for judicial officers and employees on issues including but not limited to:

(3)(A)(iii)(a) cultural competency;

(3)(A)(iii)(b) racial bias, implicit bias, institutional bias, and individual biases; and

(3)(A)(iii)(c) any other relevant issues.

(3)(A)(iv) Monitoring Human Resources implementation of best practices for recruitment and retention, and collaborating with Human Resources on:

(3)(A)(iv)(a) the recruitment and selection of court commissioners and employees; and

(3)(A)(iv)(b) obtaining and analyzing data.

(3)(A)(v) Collaborating with organizations such as the Utah State Bar, Utah Center for Legal Inclusion, and schools to encourage individuals from marginalized communities to apply for judicial openings.

(3)(B) Serve as a resource for persons in historically marginalized communities ~~for minorities~~ within the court system and work to increase cultural awareness, foster greater appreciation of racial and cultural diversity, and engender mutual respect in persons who deliver court services and represent our justice system

(3)(C) Make recommendations for improvement in court processes, procedures, and policies as they relate to race, gender, ethnicity, age, disability, socioeconomic status, religion, sexual orientation, marital status, veteran status, and any other status protected by law.

(3)(D) Oversee the interpreter and language access programs, and the communication and public information programs, and the judicial outreach programs.

(3)(E) Review and report on the efficient allocation and fair application of available resources to addressing issues of disparity in the judiciary

(3)(F) Implement standards, policies, and rules as directed by the State Court Administrator and Judicial Council.

(3)(G) Report to the Judicial Council at least annually.

(4) The Director shall provide support to any committee or task force created by the Judicial Council for the purpose of developing a strategic plan for the Office.

Effective May/November 1, 20__

1 **Rule 4-202.02. Records Classification.**

2 **Intent:**

3 To classify court records as public or non-public.

4 **Applicability:**

5 This rule applies to the judicial branch.

6 **Statement of the Rule:**

7 (1) **Presumption of Public Court Records.** Court records are public unless otherwise
8 classified by this rule.

9 (2) **Public Court Records.** Public court records include but are not limited to:

- 10 (2)(A) abstract of a citation that redacts all non-public information;
- 11 (2)(B) aggregate records without non-public information and without personal
12 identifying information;
- 13 (2)(C) appellate filings, including briefs;
- 14 (2)(D) arrest warrants, but a court may restrict access before service;
- 15 (2)(E) audit reports;
- 16 (2)(F) case files;
- 17 (2)(G) committee reports after release by the Judicial Council or the court that
18 requested the study;
- 19 (2)(H) contracts entered into by the judicial branch and records of compliance with
20 the terms of a contract;
- 21 (2)(I) drafts that were never finalized but were relied upon in carrying out an
22 action or policy;
- 23 (2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity
24 of the exhibit, a fair trial or interests favoring closure;
- 25 (2)(K) financial records;
- 26 (2)(L) indexes approved by the Management Committee of the Judicial Council,
27 including the following, in courts other than the juvenile court; an index may
28 contain any other index information:
 - 29 (2)(L)(i) amount in controversy;
 - 30 (2)(L)(ii) attorney name;
 - 31 (2)(L)(iii) licensed paralegal practitioner name;
 - 32 (2)(L)(iv) case number;
 - 33 (2)(L)(v) case status;
 - 34 (2)(L)(vi) civil case type or criminal violation;
 - 35 (2)(L)(vii) civil judgment or criminal disposition;
 - 36 (2)(L)(viii) daily calendar;

- 37 (2)(L)(ix) file date;
- 38 (2)(L)(x) party name;
- 39 (2)(M) name, business address, business telephone number, and business email
40 address of an adult person or business entity other than a party or a victim
41 or witness of a crime;
- 42 (2)(N) name, address, telephone number, email address, date of birth, and last
43 four digits of the following: driver's license number; social security number;
44 or account number of a party;
- 45 (2)(O) name, business address, business telephone number, and business email
46 address of a lawyer or licensed paralegal practitioner appearing in a case;
- 47 (2)(P) name, business address, business telephone number, and business email
48 address of court personnel other than judges;
- 49 (2)(Q) name, business address, and business telephone number of judges;
- 50 (2)(R) name, gender, gross salary and benefits, job title and description, number
51 of hours worked per pay period, dates of employment, and relevant
52 qualifications of a current or former court personnel;
- 53 (2)(S) unless classified by the judge as private or safeguarded to protect the
54 personal safety of the juror or the juror's family, the name of a juror
55 empaneled to try a case, but only 10 days after the jury is discharged;
- 56 (2)(T) opinions, including concurring and dissenting opinions, and orders entered
57 in open hearings;
- 58 (2)(U) order or decision classifying a record as not public;
- 59 (2)(V) private record if the subject of the record has given written permission to
60 make the record public;
- 61 (2)(W) probation progress/violation reports;
- 62 (2)(X) publications of the administrative office of the courts;
- 63 (2)(Y) record in which the judicial branch determines or states an opinion on the
64 rights of the state, a political subdivision, the public, or a person;
- 65 (2)(Z) record of the receipt or expenditure of public funds;
- 66 (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;
- 67 (2)(BB) record of formal discipline of current or former court personnel or of a
68 person regulated by the judicial branch if the disciplinary action has been
69 completed, and all time periods for administrative appeal have expired, and
70 the disciplinary action was sustained;
- 71 (2)(CC) record of a request for a record;
- 72 (2)(DD) reports used by the judiciary if all of the data in the report is public or the
73 Judicial Council designates the report as a public record;
- 74 (2)(EE) rules of the Supreme Court and Judicial Council;

- (2)(FF) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;
- (2)(GG) statistical data derived from public and non-public records but that disclose only public data; and
- (2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

(3) Sealed Court Records. The following court records are sealed:

- (3)(A) records in the following actions:
- (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;
 - (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months after the conclusion of proceedings, which are private until sealed;
 - (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on minors; and
 - (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
- (3)(B) expunged records;
- (3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;
- (3)(D) records showing the identity of a confidential informant;
- (3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;
- (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- (3)(G) records designated as sealed by rule of the Supreme Court;
- (3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings; and
- (3)(I) other records as ordered by the court under Rule 4-202.04.

(4) Private Court Records. The following court records are private:

- (4)(A) records in the following actions:
- (4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;

- (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;
- (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;
- (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and
- (4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment.
- (4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:
- (4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;
- (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
- (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;
- (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
- (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
- (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;
- (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;
- (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
- (4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);
- (4)(C) records related to determinations of indigency;
- (4)(D) an affidavit supporting a motion to waive fees;
- (4)(E) aggregate records other than public aggregate records under subsection (2);
- (4)(F) alternative dispute resolution records;
- (4)(G) applications for accommodation under the Americans with Disabilities Act;
- (4)(H) jail booking sheets;
- (4)(I) citation, but an abstract of a citation that redacts all non-public information is public;
- (4)(J) judgment information statement;
- (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- (4)(L) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;
- (4)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number, account description and number, password,

- identification number, maiden name, mother's maiden name, and similar personal identifying information;
- (4)(N) medical, psychiatric, or psychological records;
- (4)(O) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:
 - (4)(O)(i) name change of a minor;
 - (4)(O)(ii) guardianship or conservatorship for a minor;
 - (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;
 - (4)(O)(iv) protective orders and stalking injunctions; and
 - (4)(O)(v) custody orders and decrees;
- (4)(P) nonresident violator notice of noncompliance;
- (4)(Q) personnel file of a current or former court personnel or applicant for employment;
- (4)(R) photograph, film, or video of a crime victim;
- (4)(S) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:
 - (4)(S)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or
 - (4)(S)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;
- (4)(T) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;
- (4)(U) record submitted for in camera review until its public availability is determined;
- (4)(V) reports of investigations by Child Protective Services;
- (4)(W) victim impact statements;
- (4)(X) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;
- (4)(Y) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;
- (4)(Z) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure; and
- (4)(AA) other records as ordered by the court under Rule 4-202.04.

(5) Protected Court Records. The following court records are protected:

- (5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;
- (5)(B) records that are subject to the attorney client privilege;

- (5)(C) bids or proposals until the deadline for submitting them has closed;
- (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;
- (5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;
- (5)(F) court security plans;
- (5)(G) investigation and analysis of loss covered by the risk management fund;
- (5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;
- (5)(I) confidential business records under Utah Code Section 63G-2-309;
- (5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:
- (5)(J)(i) interfere with an investigation;
 - (5)(J)(ii) interfere with a fair hearing or trial;
 - (5)(J)(iii) disclose the identity of a confidential source; or
 - (5)(J)(iv) concern the security of a court facility;
- (5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;
- (5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;
- (5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;
- (5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;
- (5)(O) record the disclosure of which would jeopardize life, safety, or property;
- (5)(P) strategy about collective bargaining or pending litigation;
- (5)(Q) test questions and answers;
- (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- (5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;
- (5)(T) presentence investigation report;
- (5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and
- (5)(V) other records as ordered by the court under Rule 4-202.04.
- (6) Juvenile Court Social Records.** The following are juvenile court social records:
- (6)(A) correspondence relating to juvenile social records;
 - (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;
 - (6)(C) medical, psychological, psychiatric evaluations;
 - (6)(D) pre-disposition and social summary reports;
 - (6)(E) probation agency and institutional reports or evaluations;

- (6)(F) referral reports;
- (6)(G) report of preliminary inquiries; and
- (6)(H) treatment or service plans.
- (7) Juvenile Court Legal Records.** The following are juvenile court legal records:
- (7)(A) accounting records;
- (7)(B) discovery filed with the court;
- (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;
- (7)(D) name of a party or minor;
- (7)(E) record of a court hearing;
- (7)(F) referral and offense histories
- (7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.
- (8) Safeguarded Court Records.** The following court records are safeguarded:
- (8)(A) upon request, location information, contact information, and identity information other than name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a, Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;
- (8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;
- (8)(C) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;
- (8)(D) location information, contact information, and identity information other than name of a prospective juror summoned to attend court;
- (8)(E) the following information about a victim or witness of a crime:
- (8)(E)(i) business and personal address, email address, telephone number, and similar information from which the person can be located or contacted;
- (8)(E)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information.

Effective December 5, 2021

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 trials ~~and court proceedings~~ in courts of record and not of record, except small claims court. In the discretion of the court, this rule may apply to any proceeding in which exhibits are introduced.

Statement of the Rule:**(1) Marking exhibits**

(1)(A) **Marking Exhibits.** Prior to trial, or at a time specified by the judge, each party must mark all exhibits it intends to introduce by utilizing exhibit labels in the format prescribed by the clerk of court. 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. 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.~~

(1)(C) **Courts not of record.** Courts not of record may exempt parties from the requirements outlined in paragraphs (1)(A) and (1)(B) and prescribe an alternative process for marking exhibits.

(2) Exhibit custody during trial 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, paraphernalia, 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 such as a hard drive or computer, 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 or on digital media such as a thumb drive and stored 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 and record the receipt and location of the exhibits. 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) Exhibit custody prior to disposition ~~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), and shall maintain a current inventory list of all exhibits in the court's custody. 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) **Exhibit custody post disposition.** In courts of record, upon final disposition of the case, exhibits in the court's custody shall be disposed of or returned to the offering parties pursuant to paragraph (5). 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. In courts not of record, upon final disposition of the case, all exhibits shall be returned to the parties. ~~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 Utah 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. Exhibits in the court's custody shall be disposed of as follows:

(5)(A) 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)(B) 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__

Rule 4-401.02. Possession and use of portable electronic devices.**Intent:**

To permit the use of portable electronic devices in courthouses and courtrooms, subject to local restrictions.

Applicability:

This rule applies to the courts of record and not of record.

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

- (1)(A) "Judge" as used in this rule means the judge, justice, or court commissioner who is presiding over the proceeding.
- (1)(B) "Portable electronic device" as used in this rule means any device that can record or transmit data, images or sounds, or access the internet, including a pager, laptop/notebook/personal computer, handheld PC, PDA, audio or video recorder, wireless device, cellular telephone, or electronic calendar.
- (1)(C) "Court proceeding" means any trial, hearing or other matter, including proceedings conducted by remote transmission.

(2) Possession and use of portable electronic devices in a courthouse.

- (2)(A) A person may possess and use a portable electronic device anywhere in a courthouse, except as limited by this rule or directive of the judge.
- (2)(B) All portable electronic devices are subject to screening or inspection at the time of entry to the courthouse and at any time within the courthouse in accordance with Rule 3-414.
- (2)(C) All portable electronic devices are subject to confiscation if there is reason to believe that a device is or will be used in violation of this rule. Violation of this rule or directive of the judge may be treated as contempt of court.
- (2)(D) ~~For the limited purpose of conducting a pilot project to evaluate the performance of justice court judges using courtroom observation, t~~The Judicial Performance Evaluation Commission may record and transmit video and sound of court proceedings to evaluate the performance of justice court judges subject to a basic evaluation. These recordings and transmissions are not public, pursuant to Utah Code sections 63G-2-201(3) and 78A-12-206.

(3) Restrictions.

- (3)(A) **Use of portable electronic devices in common areas.** The presiding judges may restrict the time, place, and manner of using a portable electronic device to maintain safety, decorum, and order of common areas of the courthouse, such as lobbies and corridors.
- (3)(B) **Use of portable electronic devices in courtrooms.**
 - (3)(B)(i) A person may silently use a portable electronic device inside a courtroom.

- (3)(B)(ii) A person may not use a portable electronic device to record or transmit images or sound of court proceedings, except in accordance with Rule 4-401.01 or subsection (2)(D) above.
- (3)(B)(iii) A judge may further restrict use of portable electronic devices in his or her courtroom. Judges are encouraged not to impose further restrictions unless use of a portable electronic device might interfere with the administration of justice, disrupt the proceedings, pose any threat to safety or security, compromise the integrity of the proceedings, or threaten the interests of a minor.
- (3)(B)(iv) During trial and juror selection, prospective, seated, and alternate jurors are prohibited from researching and discussing the case they are or will be trying. Once selected, jurors shall not use a portable electronic device while in the courtroom and shall not possess an electronic device while deliberating.
- (3)(C) **Use of portable electronic devices while viewing court proceedings conducted by remote transmission.**
- (3)(C)(i) A person may not use a portable electronic device to record, photograph, or transmit images or sound of court proceedings, except in accordance with rule 4-401.01 or subsection (2)(D) above. Access to court proceedings will be contingent on the person agreeing to comply with the provisions in this rule and any administrative or standing orders that supplement this rule.
- (3)(C)(ii) A violation of an administrative or standing order may be treated as contempt of court.
- (4) **Use of portable electronic devices in court chambers.** A person may not use a portable electronic device in chambers without prior approval from the judge.
- (5) **Instruction to witnesses.** It should be anticipated that observers in the courtroom will use portable electronic devices to transmit news accounts and commentary during the proceedings. Judges should instruct counsel to instruct witnesses who have been excluded from the courtroom not to view accounts of other witnesses' testimony before giving their own testimony.

TAB 3

CJA Rule 3-117. Committee on Court Forms

Notes:

Proposed amendment removes the requirement that the General Counsel's Office staff the Forms Committee, allowing the State Court Administrator to assign resources where appropriate. The General Counsel's Office will still be required to review the forms for legal sufficiency.

Rule 3-117. Committee on Court Forms**Intent:**

To establish a committee to determine the need for forms and to create forms for use by litigants in all court levels.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

(1) The committee shall conduct a comprehensive review of the need for court forms to assist parties and practitioners in all court levels.

(2) The committee shall create forms as it deems necessary for use by parties and practitioners, including forms for the Online Court Assistance Program.

(3) Process for form creation.

(3)(a) The committee shall adopt procedures for creating new forms or making substantive amendments to existing forms, procedures for eliminating obsolete and outdated forms, procedures for recommending which forms should be translated into other languages, and procedures for expediting technical or non-substantive amendments to forms.

(3)(b) Forms should be written in plain language and reference the statutes and rules to which the forms apply.

(3)(c) The committee shall solicit input from other interested groups as it deems appropriate. The committee may establish subcommittees using non-committee members to facilitate its work.

(3)(d) The committee may recommend to the Judicial Council mandatory use of particular forms. However, the Judicial Council's designation of a form as mandatory is not binding on a decision-maker asked to review the legal correctness of the form.

(3)(e) The Office of General Counsel shall ~~staff the committee and shall~~ review all forms for legal correctness ~~before final approval by the committee.~~

(4) The State Law Librarian shall be responsible for maintaining and archiving the forms.

(5) The Administrative Office shall provide administrative support to the committee.

Effective ~~May 22, 2017~~ November 1, 2021

TAB 4

CJA Rule 2-101. Rules for the conduct of Council meetings.

CJA Rule 6-101. The Board of District Court Judges

CJA Rule 7-101. Juvenile Court Board, Executive Committee and Council Representatives

CJA Rule 9-101. Board of Justice Court Judges

CJA Rule 5-101. The Board of Appellate Court Judges

Notes:

The proposed amendments remove the requirement to follow Robert's Rules, bringing us in line with current practice. This appears to be a self-imposed requirement. It isn't followed and isn't required for the Council under the Open and Public Meetings Act.

Rule 2-101. Rules for the conduct of Council meetings.**Intent:**

To provide for the formal and orderly consideration of issues by the Council.

Applicability:

This rule shall apply to all meetings of the Council.

Statement of the Rule:

(1) A quorum of the Council is necessary for the Council to take any action. Council members may be present either physically or by means of electronic communication.

(2) The affirmative vote of a majority of the Council members present is required to take final action on any rule or resolution.

(3) The presiding officer votes only in the event of a tie. All other members of the Council have one vote.

(4) Meetings of the Council shall be conducted in ~~accordance with Robert's Rules of Order. The Council may suspend the rules of order upon the affirmative vote of a majority of the Council members present. When the rules of order are suspended, the Council meeting shall be conducted in~~ an orderly and professional manner.

1 **~~Article 1. General.~~**

2
3 **Rule 5-101. ~~The~~ Board of Appellate Court Judges.**

4
5 **Intent:**

6 To establish the Board of Appellate Court Judges.

7
8 To establish the procedure of the Board in the conduct of Board meetings.

9
10 **Applicability:**

11 This rule shall apply to the Board of Appellate Court Judges.

12
13 **Statement of the Rule:**

14 (1) **Establishment.** There is established a Board of Appellate Court Judges.

15
16 (2) **Membership.** Members of the Board shall be the members of the Court of Appeals and the
17 members of the Supreme Court

18
19 (3) **Chair and vice chair.** The Chief Justice of the Supreme Court and the Presiding Judge of
20 the Court of Appeals shall alternate as the Chair and Vice Chair of the Board and shall alternate
21 presiding over the meetings of the Board.

22
23 (4) **Meetings.**

24
25 (4)(A) The Board shall meet a minimum of three times a year to transact any business
26 that is within its jurisdiction.

27
28 ~~(45)(B)~~ The Board shall act by majority vote. All members of the Board have the right to
29 vote.

30
31 ~~(4)(C)~~ A quorum from both the Supreme Court and the Court of Appeals is required for a
32 Board meeting. A quorum for the Supreme Court is at least three members and a
33 quorum for the Court of Appeals is at least four members.

34
35 ~~(46)(D)~~ Board meetings shall be conducted in ~~accordance with Robert's Rules of~~
36 ~~Order~~ an orderly and professional manner and are not open and public meetings.

37
38 Effective ~~December 16, 2019~~ November 1, 2021

Rule 6-101. ~~The~~ Board of District Court Judges.**Intent:**

To establish the Board of District Court Judges.

To prescribe the composition of the Board's membership, the method of selecting Board members and officers, and the members' terms of office.

To establish the procedure of the Board in the conduct of Board meetings.

Applicability:

This rule shall apply to the Board of District Court Judges.

Statement of the Rule:

(1) **Establishment.** There is hereby established a Board of District Court Judges.

(2) **Election.** Members of the Board shall be elected by the district court judges present at the district court business meeting at the annual judicial conference. The judges present at this meeting shall constitute a quorum. Nominations may be made only by district court judges, and must come from the judicial district or districts in which the vacancy exists.

(3) **Membership.** The Board shall consist of the following eleven positions:

(3)(A) one from the First Judicial District;

(3)(B) two from the Second Judicial District;

(3)(C) three from the Third Judicial District;

(3)(D) two from the Fourth Judicial District;

(3)(E) one from the Fifth Judicial District; and

(3)(F) two from the Sixth, Seventh, or Eighth Judicial Districts.

(4) **Terms.** Members of the Board shall serve staggered three-year terms or until a Board member is replaced or resigns.

(5) **Chair and vice chair.**

(5)(A) Establishment. There shall be a Chair and Vice Chair of the Board selected from among the Board.

(5)(B) Election. The Vice Chair shall be elected by the Board members and shall be in the first or second year of a three-year term. The Vice Chair shall serve as Chair in the absence of the Chair or at the request of the Chair.

(5)(C) Vice chair's term. The Vice Chair shall become Chair of the Board during the second or third year of a three-year term. The Chair shall preside over all meetings of the Board and over the annual district court business meeting.

(6) Vacancies.

(6)(A) If a vacancy occurs for any reason between annual district court business meetings, the Board shall elect a replacement for the unexpired term of the vacancy. The Board shall adhere to the district makeup of the Board in this selection.

(68)(B) Vacancy in the office of the chair. Should the Chair of the Board resign or leave the Board for any reason, the Vice Chair shall become Chair, serving both the unexpired term of the Chair and full term as Chair.

(69)(C) Vacancy in the office of the vice chair. In the event that the Vice Chair of the Board resigns or leaves the Board for any reason, a new Vice Chair shall be selected by the Board from among its members to serve the unexpired term of the Vice Chair.

(740) Meetings.

(7)(A) The Board shall meet a minimum of once every two months to transact any and all business that is within its jurisdiction.

(744)(B) The Board shall act by majority vote. All members of the Board have the right to vote. Six members of the Board constitute a quorum.

(7)(C) The meetings shall be conducted in an orderly and professional manner and in accordance with this Code.

(742)(D) When a Board member is unable to attend a Board meeting, that member may designate a district judge, from the same district or districts represented by the absent member, to attend the meeting on behalf of the absent member. The substitute judge shall be provided with a copy of the agenda and other meeting materials, may attend the open and closed sessions of the meeting, and may participate in the discussion of agenda items. However, the substitute judge may not make motions or vote on Board issues.

~~(13) Board meetings shall be conducted in accordance with Robert's Rules of Order.~~

~~(14) All business conducted by the Board shall be conducted in accordance with this Code.~~

Effective ~~May 1, 2019 pursuant to CJA Rule 2-205~~ November 1, 2021

Rule 7-101. Juvenile Court Board, Executive Committee and Council Representatives.**Intent:**

To establish a Board of Juvenile Court Judges.

To establish an Executive Committee of the Board.

To establish the authority and duties of the Board and the Executive Committee.

To establish the election procedure for Board members, Chair elect of the Board and the Judicial Council representatives.

Applicability:

This rule shall apply to the Board of Juvenile Court Judges.

Statement of the Rule:**(1) Juvenile court board.**

(1)(A) **Establishment.** There is hereby established a Board of Juvenile Court Judges.

(1)(B) **Membership.** The Board shall be composed of seven juvenile court judges elected at the Annual Judicial Conference Juvenile Court business meeting by sitting Juvenile Court Judges.

(1)(C) **Representation.** Representation from each judicial district shall be as follows:

(1)(C)(i) Five Board members from the Second, Third and Fourth Judicial Districts with at least one representative from each District; and

(1)(C)(ii) Two Board members from the First, Fifth, Sixth, Seventh or Eighth Districts.

(1)(D) **Election.** The juvenile court judges present at the annual business meeting shall constitute a quorum. Nominations for board positions may be made by sitting Juvenile Court Judges only. Nominations must come from the Judicial District or Districts in which the vacancy exists. All sitting judges shall be entitled to vote for all members of the Board.

(1)(E) **Terms.** The terms of the initial Board members shall be determined by lot, with four members selected to serve three year terms and three members selected to serve two year terms. Successors shall be elected for three year terms.

(1)(F) **Vacancies.** If a vacancy occurs for any reason on the Board between Annual Judicial Conferences, the Board shall elect a replacement for the unexpired term of the vacancy. In filling the vacancy, the Board shall adhere to and perpetuate the District representation in effect at the time of the vacancy.

(2) Chair and vice chair.

(2)(A) **Establishment.** There shall be a Chair and Vice Chair of the Board.

(2)(B) **Chair's term.** The Chair shall serve a one year term beginning immediately after the Annual Judicial Conference in the year following election as Vice Chair.

(2)(C) **Responsibilities.** The Chair shall preside over all meetings of the Board and the Juvenile Court Judges Meeting at the Annual Judicial Conference, and perform other duties as set forth in the Juvenile Court Act, this Code and as directed by the Board.

(2)(D) **Vacancy in office of chair.** In the event that the Chair resigns or leaves the Board for any reason, the Vice Chair shall become Chair, serving both the unexpired term of the Chair and the full term as Chair.

(2)(E) **Election.** The Vice Chair shall be elected by the Board members at the commencement of the first or second year of the Vice Chair's three year term on the Board. The Vice Chair shall serve as Chair in the absence of the Chair or at the request of the Chair.

(2)(F) **Vice chair's term.** The Vice Chair shall become Chair of the Board for a one year term immediately following the Annual Judicial Conference next succeeding his election as Vice Chair.

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

(3) **Meetings of the board.**

(3)(A) The Board shall meet a minimum of once every two months to transact any and all business that is within its jurisdiction. This meeting shall be presided over by the Chair of the Board or the Vice Chair in the absence of the Chair or at the request of the Chair.

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

(3)(C) The Board meetings shall be conducted in an orderly and professional manner and in accordance with ~~Roberts' Rules of Order and~~ this Code.

(3)(D) When a Board member is unable to attend a Board meeting, that member may designate a juvenile court judge to attend the meeting on behalf of the absent member. The substitute and the absent member must be from the same district group identified by paragraph (1)(C) above. The substitute judge shall be provided with a copy of the agenda and other meeting materials, may attend the open and closed sessions of the meeting, and may participate in the discussion of agenda items. The substitute judge may make motions and vote.

(4) **Executive committee.**

(4)(A) **Membership.** There is hereby established an Executive Committee of the Board. The committee shall be comprised of three members: the Chair of the Board, the Vice Chair and one member of the Board selected by the Board members to serve at large.

(4)(B) **Duties and responsibilities of the executive committee.** The duties and responsibilities of the Executive Committee are as follows:

(4)(B)(i) Assist the Board in establishing a planning capability in assessing and projecting needs, resources, and policies.

(4)(B)(ii) Act as liaison with other agencies and parties who seek contact with the Board.

(4)(B)(iii) Screen and reduce the number of matters presented to the full Board for its consideration to ensure that all matters referred to it require full Board consideration.

(4)(B)(iv) Review initiatives, proposals and questions that will be submitted to the full Board to ensure that information is complete and in proper form to facilitate expeditious handling by the Board.

(4)(B)(v) Assist the Administrative Office in staff work as assigned by the Board where judicial guidance may be required in carrying out Board policy.

(4)(B)(vi) Consult with the Administrative Office on matters requiring immediate attention or on matters needing judicial consideration but not requiring full Board consideration.

(4)(B)(vii) Accomplish all other assignments as may be directed by the Board.

(5) Procedures of the board.

(5)(A) The Chair of the Board shall serve as Chair of the Executive Committee. When the Chair of the Board is not available, the Chair elect shall act in the Chair's behalf.

(5)(B) All action taken by the Executive Committee shall be reported to the full Board in the form of minutes and reports and may be subject to ratification by the full Board.

(5)(C) A time and date certain shall be established for Executive Committee meetings. The juvenile court administrator or designee shall serve as secretariat to the Committee.

(6) Judicial council representatives.

(6)(A) The Juvenile Court shall have three representatives on the Council, with no two representatives serving from the same judicial district:

(6)(A)(i) one from the Second, Third, or Fourth Judicial District;

(6)(A)(ii) one from the First, Fifth, Sixth, Seventh, or Eighth Judicial District; and

(6)(A)(iii) one serving at-large.

(6)(B) Timing of elections, and the process for filling vacancies, shall be conducted pursuant to Rule 1-201. Nominations can be made by any sitting judge for any Council representative. Voting shall be by all Juvenile Court judges present at the annual business meeting. Those present at the business meeting will constitute a quorum.

(6)(C) Council representatives shall serve staggered three-year terms, with one Juvenile Court judge elected to the Council each year.

Effective ~~June 22, 2020~~ November 1, 2021

Rule 9-101. Board of Justice Court Judges.**Intent:**

To prescribe the membership, method of selection, term of office and basic procedures of the Board.

Applicability:

This rule shall apply to the Board of Justice Court Judges.

Statement of the Rule:

(1) **Establishment – Membership.** There is hereby established a Board of Justice Court Judges comprised of the chair, six at-large members, and the three Council representatives.

(2) **Election.** Members of the Board shall be elected by the justice court judges in connection with the justice court business meeting at the annual judicial conference. For all elections contemplated by this rule, judges may vote in person or remotely.

(3) **Term.** The chair and the at-large members shall serve staggered two year terms. The Council representatives shall serve during the length of their term as Council representatives.

(4) **Chair and Vice Chair.**

(4)(A) The chair shall preside over all meetings of the Board and over the Justice Court judges' training conferences. The chair may not simultaneously serve as a Council representative.

(4)(B) Members of the Board shall elect a vice-chair and an education liaison. The vice-chair shall serve as chair in the absence of the chair or upon request of the chair. Neither the vice-chair nor the education liaison may simultaneously serve as a Council representative.

(5) **Executive Committee.** There shall be an Executive Committee comprised of the chair, vice-chair and one of the Council representatives designated by the chair. The Executive Committee may take necessary action on behalf of the Board between Board meetings.

(6) **Vacancies.** If vacancies occur for any reason on the Board between elections, the Board shall elect a replacement for the unexpired term of the vacancy.

(6)(A) **Vacancy in the office of chair.** Should the chair resign or leave the Board for any reason, the vice-chair shall become chair for the remainder of the term.

(6)(B) **Vacancy in the office of vice chair.** Should the vice-chair of the Board resign or leave the Board for any reason, a new vice-chair shall be elected by the Board from among its members to serve the unexpired term of the vice-chair.

45
46 ~~(640)~~(B) **Vacancy – Council representative.** If a vacancy occurs for any reason among
47 the representatives to the Council, the Board shall designate an interim representative to
48 serve until the next annual training conference, at which time a representative shall be
49 elected to fill the unexpired term.

50
51 ~~(744)~~ **Meetings of the Board.** The Board shall meet at least quarterly to transact any and all
52 business that is within its jurisdiction. The Board shall rule by majority vote. All members, except
53 the three Council representatives, are voting members. Four voting members of the Board
54 constitute a quorum. Board meetings shall be conducted ~~generally in accordance with Robert's~~
55 ~~Rules of Order~~ **in an orderly and professional manner.**

56 -
57 ~~(12) All business conducted by the Board shall be conducted~~ **and** in accordance with this Code.

58
59 ~~(843)~~ **Certifications.** The Board shall be responsible for certifying new justice courts and
60 recertifying existing justice courts to the Judicial Council as outlined in Rule 9-108.

61
62 *Effective ~~August 21, 2020~~November 1, 2021*