

**UTAH JUDICIAL COUNCIL  
POLICY AND PLANNING COMMITTEE  
MEETING AGENDA**  
September 3, 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	<u>Water Law:</u> <ul style="list-style-type: none"> <li>• <b>CJA 6-104.</b> District Court Water Judges (NEW)</li> </ul>	Action	Tab 2	Judge Appleby
12:35	<u>Justice Court Board Recommendations:</u> <ul style="list-style-type: none"> <li>• <b>CJA Appendix B.</b> Justice Court Standards</li> <li>• <b>CJA 3-303.</b> Justice Court Clerks</li> </ul>	Action	Tab 3	Judge Brower Jim Peters
1:00	<u>Grants:</u> <ul style="list-style-type: none"> <li>• <b>CJA 3-411.</b> Grant Management</li> <li>• <b>Accounting Manual</b> – Section 11-07.00 - Special Funds – Grants (Federal &amp; Non-Federal)</li> </ul>	Action	Tab 4	Jordan Murray Karl Sweeney
1:35	<u>Automatic Expungements:</u> <ul style="list-style-type: none"> <li>• Automatic Expungement Orders</li> <li>• Presiding Judge Standing Order</li> <li>• <b>CJA 4-208.</b> Automatic Expungement of Cases (NEW)</li> </ul>	Action	Tab 5	Keisa Williams
1:50	<u>Rules back from Public Comment:</u> <ul style="list-style-type: none"> <li>• <b>CJA 4-403.</b> Electronic Signature and signature stamp use</li> <li>• <b>CJA 3-415.</b> Auditing</li> <li>• <b>CJA 7-302.</b> Court reports prepared for delinquency cases</li> </ul>	Action	Tab 6	Keisa Williams
2:00	Adjourn			

**2021 Meetings:**

October 1, 2021  
November 5, 2021 (all day)  
December 3, 2021

**2022 Meetings:**

January 7, 2022	July 1, 2022
February 4, 2022	August 5, 2022
March 4, 2022	September 2, 2022
April 1, 2022	October 7, 2022
May 6, 2022 (all day)	November 4, 2022
June 3, 2022	December 2, 2022

# TAB 1

Minutes

August 6, 2021

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

Webex video conferencing  
August 6, 2021: 12 pm -2 pm

**DRAFT**

<b>MEMBERS:</b>	<b>PRESENT</b>	<b>EXCUSED</b>	<b>GUESTS:</b>
Judge Derek Pullan, <i>Chair</i>	•		Chris Palmer
Judge Brian Cannell	•		Ron Gordon
Judge Samuel Chiara	•		Paul Barron
Judge David Connors	•		Meredith Mannebach
Judge Michelle Heward	•		<b>STAFF:</b>
Mr. Rob Rice		•	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 June 6, 2021 meeting.

***Judge Chiara moved to approve the minutes as drafted, Judge Heward seconded and the motion passed unanimously.***

**(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 electronic portable devices.

CJA 4-206:

Ms. Williams met with Mr. Rincon prior to the meeting and confirmed that his concerns were adequately resolved in the rule as written. Ms. Williams proposed one amendment in response to the public comment regarding the statutory reference. The specific reference to Title 24, Chapter 3 was removed and replaced with a general reference to the Utah Code.

***Judge Chiara moved to recommend that the Judicial Council approve rule 4-206 as final. Judge Cannell seconded and the motion passed unanimously.***

CJA 1-205:

No public comments were received. Ms. Williams recommended a minor amendment to rule 1-205 based on a request from the Board of Juvenile Court Judges. Judge Eddington was a member of the Standing Committee on Pretrial Release and Supervision when he retired. The Board recommends that the juvenile court judge member

position on the Pretrial Committee be eliminated because the issues they address do not affect juvenile court matters. The committee chair, Judge Harmond, supports the request.

Judge Heward agreed. If the committee has an issue with a juvenile matter, they can reach out to the Board or a juvenile court judge for assistance.

***Judge Heward moved to recommend that the Judicial Council approve rule 1-205 as final. Judge Cannell seconded and the motion passed unanimously.***

**CJA 3-419:**

Following a discussion, the Committee determined that many of the comments challenged the policy decision to establish the Office of Fairness and Accountability. That decision was made by the Judicial Council some time ago and the Office is now operational. Policy and Planning's task was to draft a rule outlining the scope of the Office. The Committee made the following additional amendments:

- Ensured the terms "judiciary," "judicial branch," and "judicial system" were consistent throughout;
- Deleted (3)(A)(i)(d) in lines 56-57;
- Amended (3)(A)(v) in lines 90-93 to read as follows: "Collaborating with the Utah State Bar, schools, and other organizations to encourage individuals from marginalized communities to qualify and apply for judicial position;" and
- Amended (3)(E) in lines 108-110 to read as follows: "Review and report on the efficient allocation and fair application of available resources to address issues of unequal treatment within the judicial system."

***Judge Connors moved to recommend that the Judicial Council approve rule 3-419 as final. Judge Heward seconded and the motion passed unanimously.***

**CJA 4-202.02 and CJA 4-401.02:**

No comments were received and no amendments were recommended.

***Judge Heward moved to recommend that the Judicial Council approve rules 4-202.02 and 4-401.02 as final. Judge Chiara seconded and the motion passed unanimously.***

**(3) CJA 3-117. Committee on Court Forms**

**CJA 3-401. Office of General Counsel**

Ms. Williams: The proposed amendment to 3-117 would provide the State Court Administrator with the flexibility to determine how AOC staffing resources should be allocated and to assign work with various committees accordingly. The amendment would also bring the rule in line with CJA 1-205(3)(D) and 1-204(8). The amendment to rule 3-401 would apply to both the State Court Administrator and the Judicial Council.

Following a brief discussion, Judge Chiara moved to recommend the proposed amendments to rules 3-117 and 3-401 to the Judicial Council for approval for public comment. Judge Cannell seconded and the motion passed unanimously.

**(4) CJA 2-101. Rules for the conduct of Council meetings.**

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

**CJA 7-101. Juvenile Court Boards, Executive Committee and Council Representatives.**

**CJA 9-101. The Board of Justice Court Judges.**

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

Ms. Williams: The proposed amendments remove the requirement that the Council and Boards follow Robert's Rules of Order in meetings. The court is not required to follow those procedures under the Open and Public

Meetings Act or any other section of the Code. Robert's Rules are extremely onerous and, to my knowledge, are not followed on a regular basis.

Judge Pullan: I agree. The Judicial Council could replace Robert's Rules with general principles set forth in a separate document. The principles would not need to be incorporated in a rule.

The Committee discussed several principles:

- a quorum must be present to make substantive decisions
- decisions must be made by motion
- there must be a second and an opportunity for a discussion on the motion
- a motion may be amended
- a motion must be passed by a majority of the members present

After further discussion, Judge Heward moved to send the proposed amendments to rules 2-101, 6-101, 7-101, 9-101, and 5-101 to the Judicial Council for approval for public comment. Judge Chiara seconded and the motion passed unanimously.

#### **(5) Old Business/New Business.**

Judge Pullan: Mr. Murray and Mr. Sweeney will present the revised grant guidelines in September and will be reaching out to individual members of Policy and Planning for feedback prior to the meeting. I would encourage each of you to make time for those individual meetings so that we have a good idea of the real policy issues when the Committee reconvenes in September. This is a high priority of the Council.

#### **Adjourn:**

With no further items for discussion, Judge Chiara moved to adjourn the meeting. With no second or opposition, the meeting adjourned at 1:30 pm. The next meeting will be on September 3, 2021 at 12 PM via Webex video conferencing.

# TAB 2

## CJA Rule 6-104. District Court Water Judges (NEW)

### Notes:

Judge Appleby will be proposing a new rule establishing water law judges modeled on the existing rule for tax judges. See the memo for details.

## MEMORANDUM

To: Policy and Planning Committee  
From: Kate Appleby  
Re: Water Judges Proposal  
Date: 24 August 2021

Dear Colleagues:

Here is my stab at a first draft of a water judges rule modeled after the existing tax judges rule. In some respects, this would be a natural and easy model to follow, but there are a couple of issues the committee will need to consider.

In section (1) of the tax judge rule, there's a requirement that the judge have knowledge and experience in specified areas of tax law. I didn't have that when I undertook to become a tax judge and I bet that's the case for a lot of judges who accept that assignment. Rather than make a parallel requirement for water judges, I substituted language "willingness of that judge to become familiar with this area of the law." My thought is that this would be enough--most judges won't already have the expertise, but if the educational resources are available, we can develop the expertise.

In section (2), any party can request assignment of the case to a water judge. This works fine in a tax situation because the number of parties in those cases is limited. The thing about stream adjudications is that there are potentially hundreds if not thousands of parties involved. Managing the potential for huge numbers of potential parties doesn't seem to me to be an insurmountable problem, but it's something for P&P to consider. Consulting Rick Knuth, the Special Master working with Judge Scott might be a good idea, and perhaps the State Water Engineer.

Section (3), as with the tax judges rule, provides for a case break. I never had a case break for tax cases and honestly didn't feel I needed one because the cases are discrete and when they're over, they're over. I think P&P will want to consider something more meaningful for water cases, which tend to continue pretty much indefinitely. (Remember, the case now assigned to Judge Scott was initiated in 1936!) I think it would be a real incentive to take these cases if more than a token case break is involved.

Section (4) provides for education. Our Education Department is eager to help with this and I can steer it toward local resources as well as already existing on-line tools.

**Rule 6-104. District court water judges**

**Intent:**

To designate certain district court judges as water judges.

To establish a procedure whereby district court water cases are heard by designated water judges.

To designate a supervising water judge.

**Applicability:**

This rule shall apply to district court judges.

**Statement of the Rule:**

(1) The Judicial Council shall formally designate at least three district court judges who volunteer as water judges. In making the designation, the Judicial Council shall consider the knowledge and experience of the judge in relation to cases involving the adjudication of water rights, or the willingness of that judge to become familiar with this area of the law.

(2) If a party to a case involving water law makes a request, as part of the complaint or first responsive pleading, to have the case assigned to a water judge, the case will be assigned to a water judge. Thereafter, a request to have the case assigned to a water judge may be granted in the discretion of the judge assigned to the case.

(3) Assignment of cases involving water law to a water judge shall be made on a random basis. Assignment will include an adjustment in the judge's calendar to allow the judge to handle the case.

(4) The water judges shall elect one of the water judges to be the supervising water judge. The term of office of the supervising water judge is two years beginning July 1. The supervising water judge shall be primarily responsible for:

(4)(A) the assignment of water law cases to water judges;

(4)(B) the coordination of schedules of water judges and the assignment of courtrooms and facilities in conjunction with the state court administrator and the presiding judge of each district court;

(4)(C) addressing concerns of water judges, other district court judges, or the Judicial Council regarding the management of district court water law cases;

(4)(D) overseeing the water law education of the water judges, in conjunction with the Standing Committee on Judicial Branch Education and the Education Division of the Administrative Office of the Courts;

(4)(E) presiding over meetings of the water judges; and

(4)(F) the use of law clerk resources to develop water expertise, to assist the water judges, and to facilitate consistency in the development of case precedents in the water law area and otherwise assist in the transition as new water judges are designated.

(5) If a water judge decides a water law case of first impression, or one which creates new law or gives new guidance, the water judge shall cause an opinion of the case to be published. An opinion need not be published where the case deals with settled rules of law.

(6) Water judges shall serve only so long as they are district court judges. Water judges may, however, resign as water judges, at their own request or the request of the Judicial Council, while still serving as district court judges.

(7) If a water judge does not have a full workload of water law cases, the judge shall hear non-water law district court cases to maintain a full workload of cases.

Effective May/November 1, 20

# Policy and Planning - Rule Amendment Request Form

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

## Instructions

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

To be considered, you must e-mail your proposed rule draft to Keisa Williams at [keisaw@utcourts.gov](mailto:keisaw@utcourts.gov).

Date of Request \*

MM DD YYYY

08 / 11 / 2021

Name of Requester \*

Kate Appleby

Requester Phone Number \*

801-583-5232

Name of Requester's Supervisor \*

N/A

Location of the Rule \*

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name \*

N/A, but my proposal is modeled on Rule 6-103

Brief Description of Rule Proposal \*

To promulgate a rule establishing water law judges modeled on the existing rule for tax judges.

Reason Amendment is Needed \*

Water law cases, especially general stream adjudications, are long and complex, and parties to these cases would benefit from having the option to have the cases assigned to judges with the expertise necessary to decide them; judges will also benefit from having specialized training and an organizational structure for supporting them in making these important decisions.

Is the proposed amendment urgent? \*



Yes



No

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

I don't have an estimated deadline to suggest, although the megadrought and the litigation already pending in Third District and the Virgin River, as well as anticipated litigation over the Bear River, suggest we should act as quickly as possible.

Select each entity that has approved this proposal. \*

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

- ☐ Policy and Planning member
- ☐ Pretrial Release and Supervision Committee
- ☐ Resources for Self-Represented Parties Committee
- ☐ Rules of Appellate Procedure Advisory Committee
- ☐ Rules of Civil Procedure Advisory Committee
- ☐ Rules of Criminal Procedure Advisory Committee
- ☐ Rules of Evidence Advisory Committee
- ☐ Rules of Juvenile Procedure Advisory Committee
- ☐ Rules of Professional Conduct Advisory Committee
- ☐ State Court Administrator
- ☐ TCE's
- ☐ Technology Committee
- ☐ Uniform Fine Committee
- ☐ WINGS Committee
- ☒ None of the Above

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

I reviewed this with the Judicial Council, which approved sending it to Policy and Planning. I have also reviewed it with the State Court Administrator, who supports exploring this. And I have spoken with the Judicial Education Department, which is willing to assist in putting together the education component for this proposal.

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

District Court Judges; the State Water Engineer; the United States; water rights stakeholders; state and federal agencies.



# TAB 3

## CJA Appendix B. Justice Court Standards

### CJA 3-303. Justice Court Clerks

**Notes:**

The Board of Justice Court Judges is proposing amendments to the Justice Court certification standards and adding an annual certification requirement for justice court clerks.

Mr. Peters presented proposed amendments to CJA 3-303 at the Committee's January 8, 2021 meeting. The Committee asked Mr. Peters to seek input from the Utah League of Cities and Towns and the Utah Association of Counties.

# Policy and Planning - Rule Amendment Request Form

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

## Instructions

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

To be considered, you must e-mail your proposed rule draft to Keisa Williams at [keisaw@utcourts.gov](mailto:keisaw@utcourts.gov).

Date of Request \*

MM DD YYYY

08 / 26 / 2021

Name of Requester \*

Jim Peters

Requester Phone Number \*

(801) 372-3333

Name of Requester's Supervisor \*

Ron Gordon

Location of the Rule \*

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name \*

Appendix B

Brief Description of Rule Proposal \*

After reviewing the operating standards for justice courts, the Board of Justice Court Judges is recommending several revisions.

Reason Amendment is Needed \*

Rule 9-108 of the Code of Judicial Administration requires that these standards be reviewed and updated every two years.

Is the proposed amendment urgent? \*

☐

Yes



No

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

Select each entity that has approved this proposal. \*

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

- ☐ Policy and Planning member
- ☐ Pretrial Release and Supervision Committee
- ☐ Resources for Self-Represented Parties Committee
- ☐ Rules of Appellate Procedure Advisory Committee
- ☐ Rules of Civil Procedure Advisory Committee
- ☐ Rules of Criminal Procedure Advisory Committee
- ☐ Rules of Evidence Advisory Committee
- ☐ Rules of Juvenile Procedure Advisory Committee
- ☐ Rules of Professional Conduct Advisory Committee
- ☐ State Court Administrator
- ☐ TCE's
- ☐ Technology Committee
- ☐ Uniform Fine Committee
- ☐ WINGS Committee
- ☐ None of the Above

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

.....

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

All cities and counties that operate a justice court.

.....

This form was created inside of Utah State Courts.

Google Forms

## Appendix B. Justice Court Standards For Recertification

### Instructions to applicant for recertification

As part of the application process, each entity should carefully review all requirements for the operation of Justice Courts. In order to aid governing bodies in obtaining the necessary information regarding the continuing obligations of an entity with respect to the operations of its Justice ~~the~~ Court, the governing body of each entity must request a written opinion from its attorney advising the entity of all requirements for the operation of a Justice Court, and the feasibility of maintaining a Justice Court. In addition, prior to submission of this application, each entity must duly pass a resolution requesting recertification. The resolution must also affirm that the entity is willing to meet all requirements for the operation of the Justice Court during the period of certification. A copy of the attorney's opinion and the resolution must accompany the application.

A representative of the entity may appear before the ~~Committee~~ Board of Justice Court Judges to present the application and may present any additional information which the applicant desires to present to the Board ~~Committee~~. In the event that additional information is deemed necessary, the ~~Committee-Board~~ may request such additional information from the applicant.

Certification will ~~certify-authorize~~ the court to process all cases which come within the jurisdiction of the Justice eCourt including criminal, civil and small claims cases pursuant to Section 78A-7-106 of the Utah Code.

**(1) Statutory Requirements.** Statutes of the State of Utah require that certain standards be met in the operation of a Justice Court. These statutory requirements include:

(1)(A) All official court business shall be conducted online, by phone or in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (Section 78A-7-213). [Does not seem to allow for Webex hearings as currently written.]

(1)(B) ~~Each court shall be opened and judicial business shall be transacted~~ The court shall be available to transact business every day as provided by law (Section 78A-7-213), although the judge is not required to be present during all hours that the court is open. [What does it mean to be open?]

(1)(C) The hours that the court will be open shall be posted online and conspicuously at the court ~~and in local public buildings~~ (Section 78A-7-213).

(1)(D) The judge and the clerk of the court shall ~~attend~~ be available to conduct the business of the court at regularly scheduled times (Section 78A-7-213).

45  
46 (1)(E) The entity creating the Justice Court shall provide and compensate a judge and  
47 clerical personnel to conduct the business of the court (Section 78A-7-206 and Section  
48 78A-7-20744).

49  
50 (1)(F) The entity creating a Justice Court shall assume the expenses of travel, meals,  
51 and lodging for the judge of that court to attend required judicial education and  
52 training (Section 78A-7-205).

53  
54 (1)(G) The entity creating a Justice Court shall assume the cost of travel and training  
55 expenses of clerical personnel at training sessions conducted by the Judicial Council  
56 (Section 78A-7-103244).

57  
58 (1)(H) The entity creating the Justice Court shall provide a sufficient staff of public  
59 prosecutors to attend the court and perform the duties of prosecution (Section 78A-7-  
60 103209).

61  
62 (1)(I) The entity creating the court shall provide adequate funding for attorneys where  
63 persons are indigent as provided by law (Section 78A-7-103209).

64  
65 (1)(J) The entity creating the court shall provide sufficient local law enforcement officers  
66 to attend court when required and provide security for the court (Section 78A-7-  
67 103209).

68  
69 (1)(K) Witnesses and jury fees as required by law shall be paid by the entity which  
70 creates the Court (Section 10-7-76 and 17-50-319).

71  
72 (1)(L) Any fine, surcharge, or assessment which is payable to the State shall be  
73 forwarded to the State as required by law (Section 78A-7-120 and 78A-7-121 and  
74 Section 78A-7-119).

75  
76 (1)(M) Every entity creating a court shall pay the judge of that court a fixed  
77 compensation within the range provided by statute (Section 78A-7-206).

78 (1)(N) Court shall be held within the jurisdiction of the court, except as provided by law  
79 (Section 78A-7-212). [What about Webex?]

80  
81 (1)(O) The entity creating the court shall provide and keep current for the court a copy  
82 of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code,  
83 the Justice Court Manual, state laws affecting local governments, local ordinances,  
84 and other necessary legal reference material (Section 78A-7-103244).

85  
86 (1)(P) All required reports and audits shall be filed as required by law or by rule of the  
87 Judicial Council pursuant to Section 78A-7-215.  
88

(1)(Q) An audio recording system shall maintain ~~the verbatim~~ a digital recording of all court proceedings. ~~(Section 78A-7-103).~~

(1)(Q)(i) For Class I and Class II justice courts, the system must:

(1)(Q)(i)(a) be a stand-alone unit that records and audibly plays back the recording;

(1)(Q)(i)(b) index, back-up and archive the recording and enable the record to be retrieved.

(1)(Q)(i)(c) have at least four recording channels;

(1)(Q)(i)(d) have a one-step "on" and "off" recording function;

(1)(Q)(i)(e) have conference monitoring of recorded audio;

(1)(Q)(i)(f) have external record archiving from the unit with local access;

(1)(Q)(i)(g) be capable of being integrated with the courts public address system; and (1)(Q)(ii) For Class III and Class IV justice courts, the system must, at a minimum:

(1)(Q)(ii)(a) be a stand-alone unit that records and audibly plays back the recording;

(1)(Q)(ii)(b) index, back-up and archive the recording and enable the record to be retrieved; and

(1)(Q)(ii)(c) have at least two recording channels.

(1)(Q)(iii) The Board of Justice Court Judges may create a list of products that meet these criteria.

**(2) Judicial Council Minimum Requirements.** In addition to those requirements which are directly imposed by statute, ~~Section 78A-7-103 directs~~ the Judicial Council has established additional to promulgate minimum requirements for the creation and certification of Justice Courts, as follows. ~~Pursuant to statute, the Judicial Council has adopted the following minimum requirements:~~

(2)(A) That ~~the Court be opened~~ a clerk be available for at least one hour each day that the court is required to be open- and during court hearings, as required by the judges- ~~provided by law (Section 78A-7-213).~~

133  
134 (2)(B) That the judge be available to ~~attend court and~~ conduct court business as  
135 needed, performing all duties required and exercising ultimate responsibility for the  
136 administration of justice as an independent branch of government.

137  
138 (2)(C) That, with the exception of hearings conducted electronically for remote  
139 participants, or unless otherwise authorized, all hearings be conducted in the  
140 courtroom.

141  
142 (2)(~~D~~G) That the minimum furnishings for a courtroom include: a desk and chair for  
143 the judge (on a ~~six-inch~~ riser at least six inches above the well), a desk and chair for  
144 the court clerk, chairs for witnesses, separate tables and appropriate chairs for  
145 plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and  
146 chairs for at least four jurors, a separate area with appropriate seating for the public,  
147 an appropriate room for jury deliberations, and an appropriate area or room for victims  
148 and witnesses which is separate from the public, as well as a- ~~(A suggested courtroom~~  
149 ~~configuration is attached).~~

150  
151 ~~(2)(D) A judicial robe, a gavel, current fine schedules, a copy of the Code of Judicial~~  
152 ~~Administration,~~ and necessary forms and supplies.

153  
154 (2)(E) ~~That~~ Office space for the judge and clerk be appropriate (under certain  
155 circumstances this space may be shared, but if shared, the judge and clerk must have  
156 priority to use the space whenever needed). The office space shall include a desk for  
157 the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a  
158 telephone for the judge and a telephone for the clerk, appropriate office supplies to  
159 conduct court business, a cash register or secured cash box for each clerk performing  
160 cashiering duties, a ~~typewriter or computer with~~ word processing software~~or,~~ and  
161 access to a scanner and copy machine.

162  
163 ~~(2)(F) A clerk must be present during the time the court is open each day and during~~  
164 ~~court sessions, as required by the judge.~~

165  
166 (2)(F) That the court is able to provide interpreters as required by Rule 3-306.04 of the  
167 Code of Judicial Administration.

168  
169 (2)(G) ~~That~~ the entity ~~must~~ have at least one peace officer (which may be contracted).

170  
171 (2)(H) ~~That a~~ A court security plan ~~must~~ be submitted and approved consistent with  
172 G.J.A. as required by Rule 3-414 of the Code of Judicial Administration.

173  
174 (2)(I) Each court must have at least one computer with access to the internet, and  
175 appropriate software and security/encryption technology to allow for electronic  
176 reporting and access to Driver License Division and the Bureau of Criminal

Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety.

(2)(J) Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in ~~number 9~~ Section 2(I) above.

(2)(K) That clerks' education hours be reported to the AOC on an annual basis.

(2)(L) That the appointment of the clerk(s) assigned to serve the court shall be subject to the judge's approval, who may participate in the interview and personnel evaluation process for the clerk(s) at his or her discretion.

(2)(M) That the clerks of the court be certified as contemplated by Rule 3-303 of the Code of Judicial Administration.

(2)(N) That any interlocal agreement relating to court operations, as amended to date, be provided to the Justice Court Administrator.

(2)(O) That the court accept credit and debit cards through a system that integrates with CORIS.

**(3) Classification of Courts Based on Case Filings.** In establishing minimum requirements, the Judicial Council has determined that Justice Courts with higher case filings require greater support services. To accommodate the great differences in judicial activity between Justice Courts within the state, the Council has divided courts into four classes based upon the average monthly cases filed in that court. Minimum standards have been set for each classification.

(3)(A) **Class IV Courts.** Courts which have an average of less than 61 cases filed each month are classified as Class IV Courts. The minimum requirements for a Class IV Court ~~are stated above. (These requirements are also attached as Class IV minimum requirements).~~ These requirements include both the statutory requirements and requirements promulgated by the Judicial Council, and are sometimes hereinafter referred to as "base requirements."

(3)(B) **Class III Courts.** Courts which have an average of more than 60 but less than 201 cases filed each month are classified as Class III Courts. In addition to the base requirements, a Class III Court must be open more hours each week ~~(see attached Class III minimum requirements),~~ and court must be scheduled at least twice per month every other week.

(3)(C) **Class II Courts.** Courts which have an average of more than 200 but less than 501 cases filed each month are classified as Class II Courts. In addition to the base

requirements, Class II Courts are required to be open additional hours ~~(see attached Class II minimum requirements)~~, the courtroom configuration is required to be permanent (although the courtroom may be used by another entity when the court is not in session), court must be scheduled at least weekly, the judge must be provided an appropriate office (chambers) for his own use, clerical space may not be shared, at least one full-time clerk must be provided ~~(see attached Class II minimum requirements)~~, and the courtroom, judge's chamber and clerk's office must be in the same building.

(3)(D) **Class III Courts.** Courts which have an average monthly filing of more than 500 cases are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three full-time clerks, at least one of whom is available it must be open during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and which meets the master plan guideline adopted by the Judicial Council, and the judge's chambers and clerk's office cannot be shared by another entity.

**(4) Waivers.** The State Legislature has provided that any Justice Court which continues to meet the minimum requirements for its class is entitled to be recertified. However, the Judicial Council also has authority to waive any minimum requirement which has not been specifically imposed by the Legislature (i.e. requirements 1 - 10 above, which have been adopted by the Judicial Council pursuant to Section 78A-7-103). Waiver is at the discretion of the Judicial Council and will be based upon a demonstrated need for a court to conduct judicial business and upon public convenience. Any waiver will be for the entire term of the certification. A waiver must be obtained through the Judicial Council each time a court is recertified and, the fact that a waiver has been previously granted, will not be determinative on the issue of waiver for any successive application.

There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are affected by the type of cases filed (some courts have a high percentage of traffic matters, while others handle significant numbers of criminal and small claims matters), the location of the Court, the number of law enforcement agencies served, the policies and procedures followed by each judge with respect to the operation of the Court, and many other factors. Clerical resources and judicial time are particularly sensitive to local conditions. In order to adequately function, it is anticipated that some courts will exceed minimum requirements for clerical resources and judicial time. Similarly, the particular circumstances of a court may allow it to operate efficiently with less than the minimum requirements in the above areas; and in such circumstances a waiver may be requested.

**(5) Extensions.** The statute also provides that the Judicial Council may grant an extension of time for any requirement which is not specifically required by statute. An extension may be granted at the discretion of the Judicial Council where individual circumstances temporarily prevent the entity from meeting a minimum requirement. An extension will be

for a specific period of time and the certification of the court will terminate at the end of the extension period. In order for the court to continue to operate beyond the extension period, the court must be certified as meeting all requirements, obtain an additional extension, **or obtain a waiver as provided above.**

**(6) Judge Certificate.** Applications for existing courts for recertification shall be accompanied by a certificate of the judge, on a form approved by the Judicial Council, certifying that the operational standards for the court have been met during the prior year. Any exceptions to compliance with the minimum requirements or operational standards shall be noted on the above form. In addition, individual Justice Court Judges must meet with the governing body of the entity which created the court at least once a year to review the budget of the court, review compliance with the requirements and operational standards of the court, and discuss other items of common concern and shall certify that this meeting has been held, and that the operational standards for the court have been met during the prior year.

**(7) Justice Court Standards Committee.** Upon submission of an application, the Board of Justice Court ~~Judges Standards Committee~~ will conduct an appropriate independent investigation and notify the entity of its initial recommendations, whether in favor or against certification. If the ~~Committee Board~~ intends to recommend against certification, it shall specify the minimum requirements which have not been met. The entity may then present additional information to the ~~Committee Board~~, request an extension, **or request a waiver.** After making an appropriate investigation based upon any additional information or request made by the entity, the ~~Committee Board~~ will then submit its recommendations to the Judicial Council. The recommendations shall specify whether or not **a waiver or** extension should be granted, if either has been requested. If the recommendation is against recertification, **or against waiver**, or against extension, the entity may request that it be allowed to make an appearance before the Judicial Council. Any request to appear before the Judicial Council must be filed within 15 days of notification of the ~~Committee's Board's~~ recommendations.

If you have any questions concerning this application, please contact James Peters, Justice Court Administrator, by calling counsel to the Justice Court Standards Committee, at P. O. Box 140241, Salt Lake City, Utah 84114-0241, telephone: (801) 578-3824 or emailing jamesp@utcourts.gov.

*Effective May/November 1, 20\_\_*

# Policy and Planning - Rule Amendment Request Form

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

## Instructions

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

To be considered, you must e-mail your proposed rule draft to Keisa Williams at [keisaw@utcourts.gov](mailto:keisaw@utcourts.gov).

Date of Request \*

MM DD YYYY

08 / 26 / 2021

Name of Requester \*

Jim Peters

Requester Phone Number \*

(801) 372-3333

Name of Requester's Supervisor \*

Ron Gordon

Location of the Rule \*

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name \*

3-303

Brief Description of Rule Proposal \*

The Board of Justice Court Judges is proposing to amend an existing rule by adding a new section (5) that codifies its certification program for justice court clerks.

Reason Amendment is Needed \*

The Board believes that training should be provided throughout the year and that it will be more effective if clerks are required to demonstrate their proficiency with it.

Is the proposed amendment urgent? \*

☐ Yes

☒ No

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

Select each entity that has approved this proposal. \*

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

- ☐ Policy and Planning member
- ☐ Pretrial Release and Supervision Committee
- ☐ Resources for Self-Represented Parties Committee
- ☐ Rules of Appellate Procedure Advisory Committee
- ☐ Rules of Civil Procedure Advisory Committee
- ☐ Rules of Criminal Procedure Advisory Committee
- ☐ Rules of Evidence Advisory Committee
- ☐ Rules of Juvenile Procedure Advisory Committee
- ☐ Rules of Professional Conduct Advisory Committee
- ☐ State Court Administrator
- ☐ TCE's
- ☐ Technology Committee
- ☐ Uniform Fine Committee
- ☐ WINGS Committee
- ☐ None of the Above

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

.....

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

Justice court clerks, the communities that they serve, and the judiciary as a whole

.....

This form was created inside of Utah State Courts.

Google Forms

**Rule 3-303. Justice court clerks.****Intent:**

To provide for clerical services in justice courts and to establish uniform responsibilities for justice court clerks.

**Applicability:**

This rule shall apply to all justice courts.

**Statement of the Rule:**

(1) Clerks shall be provided to each justice court to assist the judge in managing the operation of the courts. The clerk shall have primary responsibility for performing clerical duties including:

(1)(A) recordkeeping;

(1)(B) filing reports;

(1)(C) scheduling hearings and trials;

(1)(D) mailing notices;

(1)(E) maintaining case files;

(1)(F) collecting fines;

(1)(G) docketing cases;

(1)(H) taking and certifying acknowledgments and administering oaths; and

(1)(I) other court related duties as assigned.

(2) The judge shall concur in the appointment of the clerk assigned to serve the court and shall participate in the personnel evaluation process for that clerk.

(3) If the clerk is serving the court in a part time capacity, the clerk shall not be assigned to other duties which present a conflict of interest or promote an appearance of impropriety regarding court responsibilities.

(4) Counties and municipalities are responsible for bearing the expense of providing clerical services to the justice courts located within their jurisdictions.

(5) Each clerk shall be certified on an annual basis by demonstrating proficiency with the training required by the Board of Justice Court Judges.

*Effective May/November 1, 20\_\_*

# TAB 4

## **Accounting Manual – Section 11-07.00 - Special Funds – Grants (Federal & Non-Federal)**

### **CJA 3-411. Grant management**

#### **Notes:**

Mr. Murray and Mr. Sweeney will present amendments to the grant management policies and procedures.

## Grants Manual (Federal and Non-Federal)

### A. Resources:

- Section 11-07.01 Forms and Instructions or Section 16 Forms, see [16-09 Other PDF listings for Federal and non-Federal Grant Applications](#).
- Grant management is governed by [UCJA Rule 3-411](#), [UCJA Rule 3-105](#), [UCJA Rule 2-103](#), [UCJA Rule 2-104](#), [UCA 63J-5-204](#), [UCA 63J-5-203](#), [UCA 63J-7-202](#), and [UCA 63J-7-203](#).

### B. Background:

This Grants Manual (“Manual”) applies to all grants where the courts are the applicant or sub-recipient/pass-through recipient of public or private grant funds. The intention of this Manual is to broadly encompass all agreements precedent to the potential receipt of grant funds either directly or indirectly. Agreements include, but are not limited to, memoranda of understanding (MOU) and any agreement for which the courts are contributing material resources or incurring risk, express or implied. These various types of arrangements are collectively termed “Grant(s)” hereafter and the organization the courts are working with to obtain the Grant is hereafter the “Grantor.” Grant renewals are addressed in paragraph (E)(11). Letters of support, or similar non-financial collaborations with external partners, are addressed in Section (E)(12). The Grant application and approval process is also governed by CJA Rule 3-105. Judicial Council review of Grant applications is subject to compliance with CJA Rule 2-103 and CJA Rule 2-104.

### C. Definitions:

- (1) “Grantor” means the organization providing the funds or the state agency distributing the funds to the courts.
- (2) “Grant Application Proposal” (GAP) is the form maintained in the Accounting Manual used to request authorization for grant applications.
- (3) “Grant Administering Unit” (GAU) is the Council, committee, court, board of judges, department, or court employee that intends to apply for and administer the grant or grant funds.

- (4) “Grant Coordinator” is the individual responsible for facilitating, monitoring, and executing the assessment and administration of Grant Application Proposals ensuring compliance with this Rule and all other applicable state rules, statutes, and federal requirements.
- (5) “Grant Manager” is the individual identified by the GAU or Grants Coordinator to manage the grant for the GAU.
- (6) “Governing Bodies” with oversight of the grant process refer to Boards of Appellate, District, Justice, and Juvenile Court Judges, the Judicial Council, the Budget and Fiscal Management Committee, the Judicial Council Management Committee, the appropriate Court-level administrator and trial court executives, and any Court committee (standing or ad hoc) vested with authority to direct the affairs of implicated Court areas and operations. Judicial Council is the ultimate approving body for the grants process, preceded by the Budget and Fiscal Management Committee’s prior recommendation. Additional governing bodies are specific to the implicated Court areas. The Grants Coordinator will confirm and may assist the GAU/grant manager with identifying the appropriate governing bodies. Determinations concerning the exclusive authority reserved by the Supreme Court and Judicial Council are governed by Rule 3-105.
- (7) “Notice of Award” (NOA) is the document notifying the applicant that an award has been issued and that funds are available to be accepted. This document contains the terms and conditions of the grant.
- (8) “Quorum” is defined in Rule 1-101(1)(S) as “a majority of the members of the Judicial Council, Board, committee or other body.”

**D. Roles and Responsibilities:**

**1. Grant Coordinator:**

- a. Stays current on federal grant regulations;
- b. earns the trust of Grantors by being open, fair and honest;
- c. develops strong relationships with grant coordinators and industry leaders in other states;
- d. reviews and updates grant policies and procedures in the Accounting Manual;
- e. curates the internal grants webpage for court grant opportunities;
- f. works with grant managers to complete grant documentation;
- g. performs grant assessments for incremental impacts;

- h. notifies the appropriate Legislative offices of Judicial Council grant approvals;
- i. ensures all grants are entered into the GOPB grants software; and
- j. along with the Director of Finance, reviews all grant reporting and compliance documentation.

2. Grant Manager/Grant Administering Unit (GAU):

- a. Seeks appropriate funding sources for grants;
- b. prepares grant application proposals (For grants in which matching funds are required of the courts, the Grant Manager/GAU shall, to the extent possible, structure the proposal to provide the match with project-related court employee labor (in-kind));
- c. administers the grant, which includes:
  - i. preparing financial and operating/narrative reports;
  - ii. ensuring any grant contractors are properly managed;
  - iii. approving all grant expenditures;
  - iv. preparing all grant reimbursement requests, and
  - v. all other duties required by the Grantor agreement.

3. Finance Department:

- a. Tracks revenues and expenditures for all grants in FINET;
- b. performs GAU services for areas within the courts that do not have appropriate resources;
- c. supplies the Grant Coordinator with administrative support as needed;
- d. liaises with State Finance and the State Auditor's Office on Single Audit reporting; and
- e. performs periodic desk audits of existing grants.

4. The State Court Administrator executes all grant application proposal documents, amendments, and renewals.

**E. Grants Manual Detailed Policies**

**(1) Purpose**

The purpose of the grants manual policies is to facilitate the prudent pursuit of grant funds that further the courts' mission to provide an open, fair, efficient, and independent system for the advancement of justice under the law.

The policies are designed to flow through a grant life cycle.

**(2) Grant application proposals**

(2)(A) The Grant Coordinator, or their designee, must be notified of the applicant's intent to apply a minimum of 8-weeks prior to the grant submission deadline established by the grantor.

(2)(B) The Grant Coordinator shall be notified prior to any correspondence with a funder (e.g., submission of a concept paper) for which solicitation of a full proposal may result.

(2)(C) To apply for a grant, the person who would serve as the grant manager shall complete the following steps in the order listed:

(2)(C)(i) Notify the Grant Coordinator;

(2)(C)(ii) Complete the GAP, including any application documents required by the Grantor;

(2)(C)(iii) Obtain General Counsel staff approval of Grantor documents;

(2)(C)(iv) Obtain Court Purchasing approval for all vendors included in the budget;

(2)(C)(v) Obtain Court IT Department approval for all technology hardware, software, and services in the budget;

(2)(C)(vi) For grants in which matching funds are required of the courts, to the extent possible, structure the grant to allow for any labor by court employees to count towards grant matching requirements; and

(2)(C)(vii) Forward the completed GAP to the Grant Coordinator.

(2)(D) Federal grants received by the courts as a result of congressional action, without submitting a grant application proposal, must still comply with the requirements set forth in Sections (3), (4) and (6).

### **(3) Assessment**

(3)(A) The Grant Coordinator will conduct a collaborative assessment of the incremental impacts the grant may have on the courts, with particular emphasis on IT Department resources. The Grant Coordinator must consider:

(3)(A)(i) the capacity of each impacted area to support the grant at current staffing levels; and

(3)(A)(ii) whether any incremental impacts would continue when grant funds cease.

(3)(B) Following the assessment, the GAU must incorporate adjustments identified by the Grant Coordinator in the grant application proposal before circulating it for approval.

#### **(4) Approval of grant application proposals**

(4)(A) The GAU and Grant Coordinator will present grant application proposals to all governing bodies within the court that may benefit from or be impacted by the grant. Grant application proposals that do not receive approval from a governing body will not be advanced. All grant application proposals must be approved by the Budget and Fiscal Management Committee (“BFMC”) prior to review and vote by the Judicial Council. Additional governing bodies are specific to the implicated Court areas. The Grants Coordinator will confirm and may assist the GAU/grant manager with identifying the appropriate governing bodies. For further details see (C)(6)(“Governing Bodies”). Potential approving bodies include:

(4)(A)(i) Trial court executives and the appropriate court-level executive

(4)(A)(ii) District, Justice, Juvenile or Appellate Boards or the Supreme Court

(4)(A)(iii) Standing committees

(4)(A)(iv) Ad hoc committees

(4)(B) No Grant Application Proposal or grant shall be approved unless it is first presented for approval in a regularly scheduled meeting of the Judicial Council as provided in the annual Judicial Council Meeting Schedule and in compliance with Rule 2-103 and Rule 2-104. No extemporaneously scheduled (ad hoc) meetings of the Judicial Council will be convened for the purpose of grant or Grant Application Proposal review.

(4)(B)(alternative)<sup>1</sup> No Grant Application Proposal or grant shall be approved unless it is first presented for approval in a regularly scheduled meeting of the Judicial Council as provided in the annual Judicial Council Meeting Schedule and in compliance with Rule 2-103 and Rule 2-104. However, “Urgent” requests (GAPs with less than an 8-week period between notice and application due date) may be considered only if the grant funds are non-federal, do not exceed \$150,000 inclusive of matching funds, and do not include the hiring of new employees. Urgent requests must (1) secure a unanimous vote among a Quorum of the Judicial Council in a regular meeting as provided in the Judicial Council Annual Meeting Schedule – ad hoc convenings will not be considered for the purpose of grant or Grant Application Proposal review, and (2) the urgency of the matter must not be precipitated by an “emergency of one’s own causing.”

<sup>1</sup>This alternative is included for consideration of “urgent” Grant Application Proposal requests.

(4)(C) The GAU must incorporate adjustments identified by a governing body in the grant application proposal before it is circulated for re-consideration.

(4)(D) The Grant Coordinator will provide a synopsis of grant application proposals that did not receive approval from a governing body to the BFMC.

(4)(E) When evaluating grant application proposals, the BFMC and Judicial Council will consider the following:

(4)(E)(i) Does the grant contribute to accomplishing the mission of the courts?

(4)(E)(ii) Does the grant add value when compared with the burden on existing and future resources, both during the grant project completion phase and thereafter?

(4)(E)(iii) Does the grant provide measurable benefits to marginalized, minority, pro se, or similar under-served individuals or communities?

(4)(E)(iv) Does the grant assist the courts in solving problems and promoting innovations that cannot be accomplished with existing resources?

(4)(E)(v) Does the grant require actions or implementation of policy not in conformity with the mission of the courts or in conformity with policies previously established by the Judicial Council, Supreme Court, or the Utah Constitution?

(4)(E)(vi) Does the grant expose the courts to potential long-term, unfunded financial obligations?

(4)(F) If a Grant Application Proposal or grant implicates both the Supreme Court's and the Judicial Council's exclusive authority, the Supreme Court and the Judicial Council shall comply with Rule 3-105 before making application for the grant or accepting grant funds.

**(5) Submission and tracking of approved applications**

(5)(A) All application documents sent to the Grantor must be signed by the State Court Administrator, or their designee. Copies of the application will be maintained by the Grant Coordinator.

(5)(B) The Grant Coordinator and grant manager will serve as the contact persons for the courts and will monitor grant approval by the Grantor.

(5)(C) If the grant is denied, the Grant Coordinator will notify the BFMC and Judicial Council.

**(6) Notice of award and accepting grant funds**

(6)(A) Upon receipt of a Notice of Award, the Grant Coordinator will ensure the notice is consistent with the grant application proposal as approved by the Judicial Council.<sup>1</sup>

(6)(B) In accordance with Utah Code, and as detailed in Exhibit A, if approved by the Judicial Council, the Grant Coordinator will either:

(6)(B)(i) notify the Executive Appropriations Committee (EAC);

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<sup>1</sup> Federal Grants which come to the Courts as a result of congressional action through a Notice of Award, but without a GAP being submitted, will still require the completion of a GAP and the steps in paragraphs 3, 4 and 6(b) – (c).

(6)(B)(ii) obtain “review and recommendation” from the EAC; or

(6)(B)(iii) obtain approval from the Legislature.

If approval from the Legislature is required, the Grant Coordinator will ensure grant funds are not accepted until Legislative approval is obtained.

(6)(C) If not approved by the Judicial Council, no funds shall be accepted from the grant and the Grant Coordinator and grant manager will notify the Grantor of the Judicial Council’s decision not to accept grant funds.

(6)(D) If grant funds may only be accepted with remedial steps, the Grant Coordinator and grant manager will communicate those steps in writing to the Grantor. The Grant Coordinator and grant manager will work with the State Court Administrator to ensure remediation has been accomplished and to determine whether the grant can be resubmitted for Judicial Council approval.

## **(7) Grant implementation**

(7)(A) **Personnel.** Grant funds shall only be used to hire permanent full-time or part-time employees if approved by the Judicial Council and in accordance with Utah Code.

(7)(A)(i) Positions created as a result of grant funds must be posted and filled in accordance with Human Resource Policies or grant requirements, whichever are stricter. Potential employee status hires must be advised that their positions are time-limited and will expire at the close of the grant, and are subject to overtime based on Fair Labor Standards Act applied to comparable court employees. Contracted positions are subject to overtime as defined in their executed contract.

(7)(A)(ii) Court employees funded by a single award must certify semi-annually to the grant manager and Grant Coordinator that work performed during the period covered by the certification was solely for the funded grant.

(7)(B) **Judicial/Quasi-Judicial duties.** If impacted by the grant, the presiding judge(s) of each district shall supervise any judicial or quasi-judicial duties required by the grant.

(7)(C) If required, the Grant Coordinator will return the executed Notice of Award to the Grantor.

(7)(D) **Start date.** The grant manager will ensure no grant activities requiring the expenditure of grant funds begin until the start date of the grant project period.

(7)(E) **Fiscal policies.** All grant contracts, purchases, and payments, including travel reimbursements, must be processed and submitted in accordance with the Accounting Manual. The grant unit number assigned by Finance must be attached to grant purchases.

(7)(F) **Technology.** All grant technology-related equipment and software must be purchased through the IT department. Arrangements for installations will be made through a service ticket to the courts' help desk. Technology purchases designated as "Equipment" by the grant must be tagged and tracked in accordance with Grantor policies.

## **(8) Grant reporting requirements**

### **(8)(A) Judicial Council**

(8)(A)(i) Annually, the Grant Coordinator will complete a compliance self-assessment for all grants in the courts' active portfolio and report the results to the BFMC, Audit Director, and Judicial Council.

(8)(A)(ii) Quarterly, the Grant Coordinator will prepare a summary of:

(8)(A)(ii)(1) all existing court grants;

(8)(A)(ii)(2) a pipeline of potential future grants inclusive of all grants-in-progress under paragraphs (4) and (5); and

(8)(A)(ii)(3) a list of potential grants denied under paragraph (4)(A).

### **(8)(B) Grantor**

(8)(A)(i) The Grant Coordinator will maintain a master compliance calendar of all reporting requirements.

(8)(A)(ii) The grant manager is responsible for reporting to the Grantor.  
Grant reporting may include both financial and narrative-based reports.

(8)(A)(iii) No later than 10 business days before a grant reporting  
deadline, the grant manager will forward all associated deliverables to the  
Grant Coordinator for review and approval by the Grant Coordinator and  
Director of Finance.

(8)(A)(iv) If approved by the Grant Coordinator and Director of Finance,  
the grant manager will be notified to proceed with submission of grant  
deliverables. If not approved, remedial steps will be communicated to the  
grant manager to be addressed prior to submission.

#### **(9) Changes in budget or scope**

(9)(A) Any changes to a grant must be documented with a grant amendment,  
whether or not the Grantor requires such documentation. Changes include, but are  
not limited to:

(9)(A)(i) revisions to the scope or objectives of the overall grant or any  
portion thereof;

(9)(A)(ii) transfers of funds between different cost categories with no  
overall budget impact;

(9)(A)(iii) extensions of time to complete grant spending;

(9)(A)(iv) revisions to the amount of funds needed; or

(9)(A)(v) changes in key personnel named in the grant.

(9)(B) Changes may not be implemented until Grantor approval is obtained in  
writing and executed between the parties.

(9)(C) The grant manager and Grant Coordinator will work together to prepare  
grant amendments.

(9)(D) Grant amendments described in paragraph (11)(B) must be approved by the Judicial Council. All other amendments must be reviewed by General Counsel staff and signed by the State Court Administrator or designee.

**(10) Closing out the grant**

(10)(A) **Audits.** Audits by the Grantor or other third party of closed grants will be handled by the grant manager, or by the Grant Coordinator if no grant manager is assigned, with assistance from the Finance and Internal Audit departments.

(10)(B) **Documentation.** Grant documentation will be retained in accordance with the Accounting Manual or Grantor requirements, whichever retention period is longest.

**(11) Renewing the grant**

(11)(A) Judicial Council approval is required for grant renewal, even when there are no changes to scope, purpose, employees, matching, funding amount, or other areas, or when the prior assessment and/or Legislature approvals will not need to be revised. With appropriate documentation and recommendation from the BFMC, the Management Committee may recommend grant renewal for Judicial Council approval in the consent calendar.

(11)(B) If a grant renewal involves a change that requires a new incremental assessment, or a change to the number of permanent full or part-time employees, or a grant amount requiring a different approval level than previously obtained, the Grant Coordinator will perform the steps in paragraphs (3) and (4). If the grant qualifies, the Grant Coordinator will resubmit the grant to the BFMC and Judicial Council for approval.

**(12) Letters of support and other non-financial collaborations**

(12)(A) External partners pursuing their own grant opportunities (“principal applicant”) may request the support of the courts as a stakeholder and explicit non-financial collaborator (NFC). Such collaborations are low-risk and provide documented reasonable assurances that no risk nor grant obligations will transfer to the courts directly or indirectly from the principal applicant. Letters of support or similar contributions to grant applications pursued by external partners must (1) be time-limited, (2) not entail the exchange of funds, (3) be non-binding, (4) not include the hiring of court employees, and (5) not commit or otherwise impose financial obligations on the courts.

(12)(A)(i) Agreements meeting all of the criteria in (12)(A) may be referred to the Grant Coordinator who will perform and document a risk assessment to be delivered to the State Court Administrator. If approved by the State Court Administrator or their designee, the Grant Coordinator shall retain a copy of the approval and notify the initiating party of the decision.

(12)(B) If approval is not granted, and assuming sufficient time to comply with this Rule, the State Court Administrator may recommend the request be modified to undergo the full process for Grant Application Proposals, or, withdrawn from all consideration.

(12)(C) All agreements approved or rejected in this process will be documented in the Grant Coordinator's monthly updates to the Budget and Fiscal Management Committee and Judicial Council.

**Policy:**

- ~~1. Grant payments are not exempt from state purchasing and travel policies. In all cases the most stringent rules apply.~~

**Procedures:**

- ~~1. Complete one of the following Grant Applications. These applications contain all of the information required by Rule and Statute in UCJA Rule 3-411(1)(A) and (1)(B) and Legislative Change (1)(a) and (1)(b).
  - ~~a. Federal Funds (pdf) (Excel form)~~
  - ~~b. Non-Federal Grants (pdf) (Excel form)~~~~
- ~~2. No funds shall be accepted from a funding source until the grant proposal is approved by the Judicial Council.~~
- ~~3. As per Rule 3-411, no matter the amount of the grant whether deemed Federal or Non-Federal, the Judicial Council must approve. The following steps are required before the grant is submitted to the Judicial Council.
  - ~~a. The grant proposal shall be reviewed by the court executives or their designees and the presiding judges in each of the districts which will be affected by the grant.~~
  - ~~b. If the court executives or their designees and the presiding judges in step a approve the grant proposal, the grant proposal shall be forwarded~~~~

to the grant coordinator (or Director of Finance in the absence of the grant coordinator) at the administrative office.

c. If the court executives or their designees and the presiding judges in step a approve the proposal, the proposal may be submitted simultaneously to the funding source and the grant coordinator at the administrative office.

d. The grant coordinator shall review the proposal with the Finance Manager and the court level administrator.

e. The Board of Judges for affected courts must recommend to the Council that the grant proposal be pursued.

## **FEDERAL GRANTS**

1. Additional approvals may be required based upon the level of the grant request. (63J-5):

a. LOW: (UCA 63J-5-204) Approval at Judicial Council level only.

- i. \$1 million per year or less in federal funds;
- ii. No new permanent full-time or part-time employees; and
- iii. No new state monies required for match.

b. MEDIUM: (UCA 63J-5-204 1(b)) Approval by Judicial Council, followed by review and recommendation by Legislative Executive Appropriations Committee prior to submission to the Grantor, if possible.

- i. More than \$1 million but less than \$10 million per year in federal funds;
- ii. Require the state to add more than 0 but less than 11 permanent full or part-time employees; or
- iii. Require the state to expend up to \$1 million of new state monies in a fiscal year.

c. HIGH: (UCA 63J-5-204 1(a)) Approval by Judicial Council, followed by review and recommendation by the entire legislature.

- i. \$10 million or more per year in federal funds;
- ii. Require the state to add 11 or more permanent full or part-time employees; or
- iii. Require the state to expend more than \$1 million per year in new state monies as match.

## **NON-FEDERAL GRANTS**

2. Additional approvals may be required based upon the level of the grant request.

~~a. LOW: (UCA 63J-5-203) Approval by Judicial Council, followed by a report to the Legislature's Executive Appropriations Committee, and the Office of the Legislature's Executive Appropriations Committee, and the Office of the Legislature Fiscal Analyst.~~

- ~~i. At least \$10,000 but not more than \$50,000 in non-federal funds;~~
- ~~ii. No new permanent full-time or part-time employees; and~~
- ~~iii. No new state monies required for match.~~

~~b. MEDIUM: (UCA 63J-5-203) Approval by Judicial Council, followed by review and recommendation by Legislative Executive appropriations Committee prior to submission to the grantor, if possible.~~

- ~~i. More than \$50,000 but less than \$1.0 million per year in nonfederal funds;~~
- ~~ii. Require the state to add more than 0 but less than 11 permanent full or part-time employees; or~~
- ~~iii. Require the state to expend \$1 to \$1.0 million of new state monies in a fiscal year as match.~~

~~c. HIGH: (UCA 63J-5-204) Approval by Judicial Council, followed by review and recommendation by the entire legislature.~~

- ~~i. \$1 million or more per year in non-federal funds;~~
- ~~ii. Require the state to add 11 or more permanent full or part-time employees; or~~
- ~~iii. Require the state to expend more than \$1 million per year in new state monies as match.~~

## ~~REVIEW OF JUDICIAL COUNCIL AND AUTHORIZATION~~

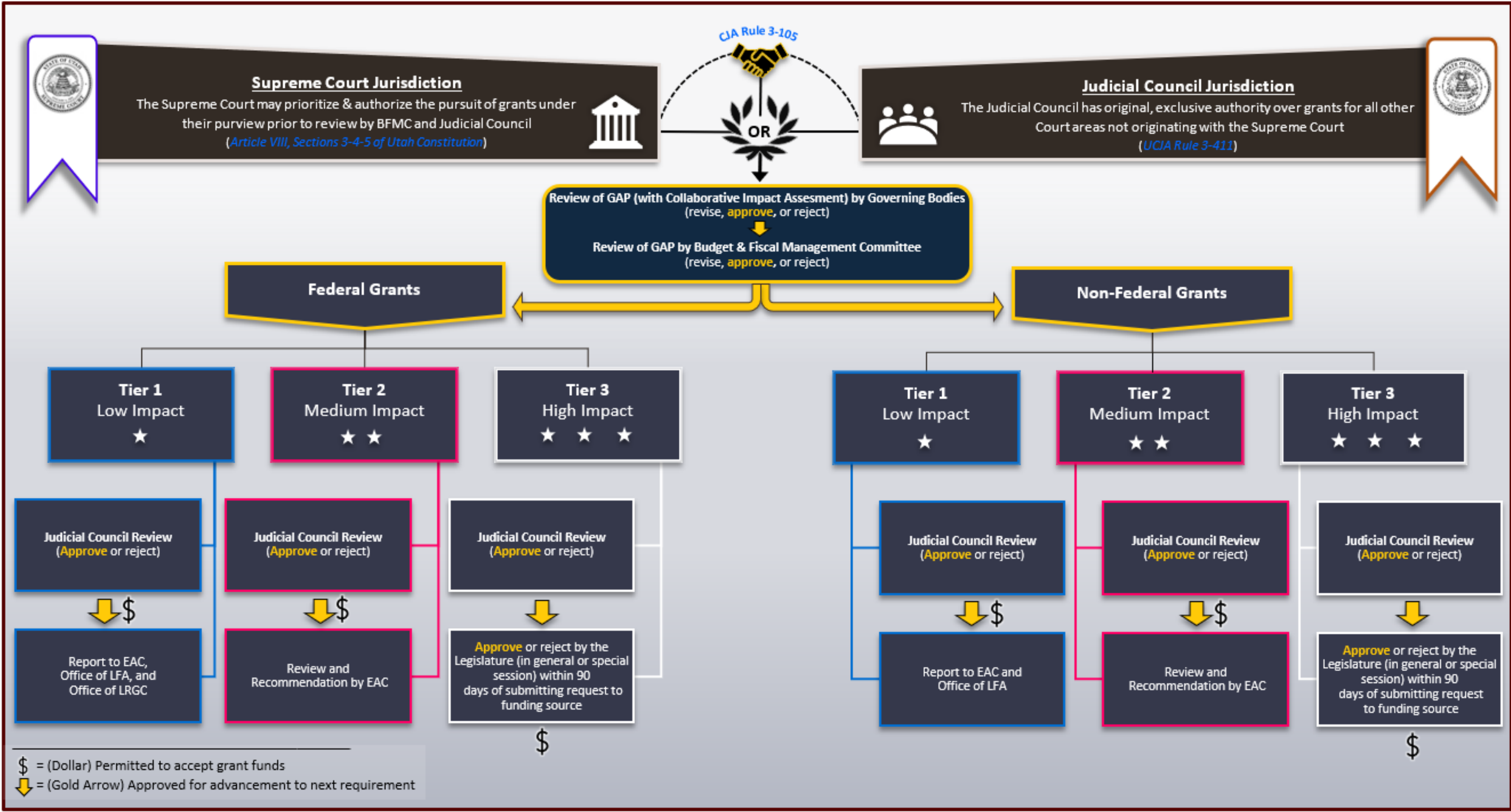
- ~~1. If the Council approves the proposal, the grant coordinator shall work with the requestor and the affected courts in seeking the grant funds. The administrative office shall constitute the designated agency for approving grant applications if such approval is required by the grant application.~~
- ~~2. The State Court Administrator must sign all grant forms as the authorizing official for all grants for the Judicial Branch. Federal and non-federal grants shall be submitted to the Legislative Fiscal Analyst, the Legislature's Executive Appropriations Committee, the Office of Legislative Research and General Counsel as required in UCA 63J.~~
- ~~3. The following information should be written on a grant application requesting either the name of the agency that performs the Single Audit or the name of the audit contact person:~~

~~Utah State Auditor  
Office of the State Auditor  
PO Box 142310~~

573 ~~Salt Lake City, UT 84114-2310~~  
574 ~~(801) 538-1025~~

575  
576 4. ~~If the Council or a Board of Judges does not approve the proposal, the~~  
577 ~~proposal shall not be submitted to the funding source or, if already~~  
578 ~~submitted to the funding source, the proposal shall be withdrawn.~~

Exhibit A



## Exhibit A (cont.)

## Glossary of Terms

I. Federal Grants	Acronyms
<p>a. <b>Tier 1 – Low Impact</b> (UCA 63J-5-203)  <i>Meets <b>all</b> of the following conditions:</i></p> <ul style="list-style-type: none"> <li>i. ≤ \$1 million per year in federal funds;</li> <li>ii. No new permanent full or part-time employees; and</li> <li>iii. No new state monies for match requirements</li> </ul>	<ul style="list-style-type: none"> <li>▪ BFMC – Budget &amp; Fiscal Management Committee</li> <li>▪ UCJA – Utah Code of Judicial Administration</li> <li>▪ EAC – Executive Appropriations Committee</li> <li>▪ GAP – Grant Application Proposal</li> <li>▪ GC – Grants Coordinator</li> <li>▪ LFA – Legislative Fiscal Analyst</li> <li>▪ LRGC – Legislative Research &amp; General Counsel</li> <li>▪ TCE – Trial Court Executive</li> <li>▪ UCA – Utah Code Annotated</li> </ul>
<p>b. <b>Tier 2 – Medium Impact</b> (UCA 63J-5-204 1(b))  <i>Meets <b>one or more</b> of the following conditions:</i></p> <ul style="list-style-type: none"> <li>i. ≥ \$1 million but &lt; \$10 million per year in federal funds;</li> <li>ii. Require state to add more than zero, but less than 11, permanent full or part-time employees;</li> <li>iii. Require state to expend up to \$1 million per year in new state monies as match requirement</li> </ul>	<p><b>Applicable Rules and Statutes</b></p> <ul style="list-style-type: none"> <li>▪ <a href="#">UCJA Rule 2-103</a> (Open and closed meetings)</li> <li>▪ <a href="#">UCJA Rule 2-104</a> (Recording meetings)</li> <li>▪ <a href="#">UCJA Rule 3-105</a> (Coordination and referral of activities implicating exclusive authority of the Supreme Court and Judicial Council)</li> <li>▪ <a href="#">UCJA Rule 3-411</a> (Grant management)</li> <li>▪ <a href="#">UCA 63J-5-203</a> (Judicial council to approve certain Federal funds requests)</li> <li>▪ <a href="#">UCA 63J-5-204</a> (Legislative review and approval of Federal funds requests)</li> <li>▪ <a href="#">UCA 63J-7-202</a> (Judicial council to approve Non-Federal grant requests)</li> <li>▪ <a href="#">UCA 63J-7-203</a> (Legislative review and approval of Non-Federal funds requests)</li> <li>▪ <a href="#">Utah Constitution</a> <ul style="list-style-type: none"> <li>○ Article VIII <a href="#">Section 3</a> (Jurisdiction of Supreme Court)</li> <li>○ Article VIII <a href="#">Section 4</a> (Rulemaking power of Supreme Court; judges pro tempore; regulation of practice of law).</li> <li>○ Article VIII <a href="#">Section 5</a> (Jurisdiction of District Court and other courts – right of appeal)</li> </ul> </li> </ul>
<p>c. <b>Tier 3 – High Impact</b> (UCA 63J-5-204 1(a))  <i>Meets <b>one or more</b> of the following conditions:</i></p> <ul style="list-style-type: none"> <li>i. ≥ \$10 million per year in federal funds;</li> <li>ii. Require state to add ≥ 11 permanent full or part-time employees;</li> <li>iii. Require state to expend &gt; \$1 million per year in new state monies as match requirement</li> </ul>	
II. Non-Federal Grants	
<p>a. <b>Tier 1 – Low Impact</b> (UCA 63J-7-202)  <i>Meets <b>all</b> of the following conditions:</i></p> <ul style="list-style-type: none"> <li>i. At least \$10k but no more than \$50k in non-federal funds;</li> <li>ii. No new permanent full or part-time employees; and</li> <li>iii. No new state monies required for match</li> </ul>	
<p>b. <b>Tier 2 – Medium Impact</b> (UCA 63J-7-202)  <i>Meets <b>one or more</b> of the following conditions:</i></p> <ul style="list-style-type: none"> <li>i. &gt; \$50k but &lt; \$1 million per year in non-federal funds;</li> <li>ii. Require the state to add more than 0 but less than 11 permanent full or part-time employees;</li> <li>iii. Require the state to expend \$1 to \$1 million of new state monies in a fiscal year as match</li> </ul>	
<p>c. <b>Tier 3 – High Impact</b> (UCA 63J-7-202)  <i>Meets <b>one or more</b> of the following conditions:</i></p> <ul style="list-style-type: none"> <li>i. ≥ \$1 million per year in non-federal funds;</li> <li>ii. Require the state to add 11 or more permanent full or part-time employees;</li> <li>iii. Require the state to expend &gt; \$1 million per year in new state monies as match</li> </ul>	

**Rule 3-411. Grant management.****Intent:**

To establish the policy and procedures for applying for grant funds.

To delineate the responsibility for the assessment and administration of grant funds, including compliance and renewal.

**Applicability:**

This ~~rule~~Rule shall apply to all grants where the courts are the applicant, sub-recipient, or pass-through recipient of public or private grant funds. Applicability of this Rule concerning letters of support, or similar non-financial collaborations with external partners, is specified in Section (12).

This ~~rule~~Rule applies broadly to encompass all agreements precedent to the potential receipt of grant funds either directly or indirectly. Agreements include, but are not limited to, ~~memorandums~~memoranda of understanding (MOU) and ~~sub-recipient agreements.~~any agreement for which the courts are contributing material resources or incurring risk, express or implied.

The ~~grant application~~Grant Application Proposal and approval process is also governed by Rule 3-105-~~(Administration of the Judiciary).~~ Judicial Council review of Grant Application Proposals is governed by and subject to Rule 2-103 (Open and closed meetings) and Rule 2-104 (Recording meetings).

**Definitions:**

(1) "Grantor" means the organization providing the funds or the state agency distributing the funds to the courts.

~~(1)~~ "Grant Application Proposal" (GAP) is the form maintained in the Accounting Manual used

(2) to request authorization ~~for~~to pursue grant ~~applications.~~funding.

~~(3)~~

(3) "Grant Administering Unit" (GAU) is the Council, committee, court, board of judges, department, or court employee that intends to apply for and administer the grant or grant funds.

~~(4)~~

~~(4)~~ "Grant ~~manager~~Coordinator" is the individual responsible for facilitating, monitoring, and executing the assessment and administration of Grant Application Proposals ensuring compliance with this Rule and all other applicable state rules, statutes, and federal

requirements. Accounting Manual Section 11-07.00 (D)(1) further delineates roles and responsibilities.

~~(4)~~(5) “Grant Manager” is the individual identified by the GAU or ~~Grants~~Grant Coordinator to manage the grant for the GAU.

Accounting Manual Section 11-07.00 (D)(2) further delineates roles and responsibilities.

(6) “Governing Bodies” with oversight of the grant process refer to Boards of Appellate, District, Justice, and Juvenile Court Judges, the Judicial Council, the Budget and Fiscal Management Committee, the Judicial Council Management Committee, the appropriate Court-level administrator and trial court executives, and any Court committee (standing or ad hoc) vested with authority to direct the affairs of implicated Court areas and operations. Judicial Council is the ultimate approving body for the grants process, preceded by the Budget and Fiscal Management Committee’s prior recommendation. Additional Governing Bodies are specific to the implicated Court areas. The Grant Coordinator will confirm and may assist the GAU/Grant Manager with identifying the appropriate Governing Bodies. Determinations concerning the exclusive authority reserved by the Supreme Court and Judicial Council are governed by Rule 3-105.

~~(5)~~ “Notice of Award” (NOA) is the ~~legal~~ document notifying the applicant that an award has been ~~(5)~~(7) issued and that funds are available to be accepted. This document contains the terms and conditions of the grant.

(8) “Quorum” is defined in Rule 1-101(1)(S) as “a majority of the members of the Judicial Council, Board, committee or other body.”

## Statement of the Rule:

(1) **Purpose.** The purpose of the grants policy is to facilitate the prudent pursuit of grant funds that further the courts’ mission to provide an open, fair, efficient, and independent system for the advancement of justice under the law.

## (2) **Grant ~~application proposals~~**

~~(2)(A) Grant opportunities that may be of interest to the courts will be posted to the court’s Grant website.~~

~~(2)(B)~~**Application Proposals.** To apply for a grant, the ~~grant manager must person who would serve as the Grant Manager shall~~ complete the steps set forth in the Accounting Manual Section 11-07.00 (E)(2). The following steps in the order listed requirements set forth in 11-07.00 (E)(2) are incorporated into this Rule:

~~—————(2)(B)(i) Notify the~~A) The Grant Coordinator;

~~(2)(B)(ii) Complete the GAP, including any application documents required by the grantor;~~

~~(2)(B)(iii) Obtain General Counsel staff approval, or their designee, must be notified of the applicant's intent to apply a minimum of grantor documents;~~

~~(2)(B)(iv) Obtain Court Purchasing approval for all vendors included in the budget;~~

~~(2)(B)(v) Obtain court IT Department approval for all technology hardware, software, and services in the budget;~~

~~(2)(B)(vi) For grants in which matching funds are required of the courts, to the extent possible, structure the grant to allow for any labor by court employees to count towards grant matching requirements; and~~

~~(2)(B)(vii) Forward the completed proposal to the Grant Coordinator no less than 8 weeks prior to the grant applicationsubmission deadline established by the Grantor.~~

~~(2)(C) Federal grants received by the courts as a result of congressional action, without submitting a grant application proposal, must still comply with the requirements set forth in paragraphs (3), (4), and (6).~~

### **(3) Assessment.**

(3)(A) The Grant Coordinator will conduct a collaborative assessment of the incremental impacts the grant may have on the courts, with particular emphasis on ~~the~~ IT Department resources. The Grant Coordinator must consider:

(3)(A)(i) the capacity of each impacted area to support the grant at current staffing levels; and

(3)(A)(ii) whether any incremental impacts would continue ~~if~~when grant funds ~~ceased~~cease.

(3)(B) Following the assessment, the GAU must incorporate adjustments identified by the Grant Coordinator in the ~~grant application proposal~~Grant Application Proposal before circulating it for approval.

### **(4) Approval of ~~grant application proposals~~Grant Application Proposals.**

(4)(A) The GAU and Grant Coordinator will present ~~grant application proposals~~Grant Application Proposals to all ~~governing bodies~~Governing Bodies within the court that may benefit from or be impacted by the grant. ~~Grant application proposals~~All Grant

Application Proposals must be reviewed and recommended by the Budget and Fiscal Management Committee ("BFMC") prior to review and vote by the Judicial Council. Grant Application Proposals that do not receive approval from a ~~governing body~~Governing Body will not be advanced.

~~(4)(B) The~~ (4)(B) No Grant Application Proposal or grant shall be approved unless it is first presented for approval in a regularly scheduled meeting of the Judicial Council as provided in the annual Judicial Council Meeting Schedule and in compliance with Rule 2-103 and Rule 2-104. No extemporaneously scheduled (ad hoc) meetings of the Judicial Council will be convened for the purpose of grant or Grant Application Proposal review.

(4)(B)(alternative)<sup>1</sup> No Grant Application Proposal or grant shall be approved unless it is first presented for approval in a regularly scheduled meeting of the Judicial Council as provided in the annual Judicial Council Meeting Schedule and in compliance with Rule 2-103 and Rule 2-104. However, "Urgent" requests (GAPs with less than an 8-week period between notice and application due date) may be considered only if the grant funds are non-federal, do not exceed \$150,000 inclusive of matching funds, and do not include the hiring of new employees. Urgent requests must (1) secure a unanimous vote among a Quorum of the Judicial Council in a regular meeting as provided in the Judicial Council Annual Meeting Schedule – ad hoc convenings will not be considered for the purpose of grant or Grant Application Proposal review, and (2) the urgency of the matter must not be precipitated by an "emergency of one's own causing."

<sup>1</sup>This alternative is included for consideration of "urgent" Grant Application Proposal requests.

(4)(C) The GAU must incorporate adjustments identified by a ~~governing body~~Governing Body in the ~~grant application proposal~~Grant Application Proposal before it is circulated for re-consideration.

(4)(~~CD~~) The Grant Coordinator will provide a synopsis of ~~grant application proposals~~Grant Application Proposals that did not receive approval from a ~~governing body~~Governing Body to the ~~Budget and Fiscal Management Committee ("BFMC")~~.

(4)(~~DE~~) When evaluating ~~grant application proposals~~Grant Application Proposals, the BFMC and Judicial Council will consider the following:

(4)(~~DE~~)(i) Does the grant contribute to accomplishing the mission of the courts?

(4)(~~DE~~)(ii) Does the grant add value when compared with the burden on existing and future resources, both during the grant project completion phase and thereafter?

(4)(~~DE~~)(iii) Does the grant provide measurable benefits to marginalized, minority, pro se, or similar under-served individuals or communities?

(4)(~~DE~~)(iv) Does the grant assist the courts in solving problems and promoting innovations that cannot be accomplished with existing resources?

(4)(~~DE~~)(v) Does the grant require actions or implementation of policy not in conformity with the mission of the courts or in conformity with policies previously established by the Judicial Council, Supreme Court, or the Utah Constitution?

(4)(~~DE~~)(vi) Does the grant expose the courts to potential long-term, unfunded financial obligations?

(4)(F) If a Grant Application Proposal or grant implicates both the Supreme Court's and the Judicial Council's exclusive authority, the Supreme Court and the Judicial Council shall comply with Rule 3-105 before making application for the grant or accepting grant funds.

#### (5) Submission and tracking of approved applications

~~(5)(A) All application documents sent to the grantor or primary applicant must be signed by the State Court Administrator. Copies. The tracking of the application approved submissions will be maintained by the Grant Coordinator.~~

~~(5)(B) The Grant Coordinator and grant manager will serve as the contact person for the courts and will monitor grant approval by follow the steps set forth in the grantor. Accounting Manual Section 11-07.00 (E)(5).~~

~~(5)(C) If the grant is denied, the Grant Coordinator will notify BFMC, and Judicial Council.~~

#### (6) Notice of ~~award~~Award and accepting grant funds.

(6)(A) Upon receipt of a Notice of Award, the Grant Coordinator will ensure the notice is consistent with the ~~grant application proposal~~Grant Application Proposal as approved by the Judicial Council.

(6)(B) In accordance with Utah Code, as detailed in the Accounting Manual Section 11-07.00 Exhibit A, if approved by the Judicial Council, the Grant Coordinator will either:

(6)(B)(i) notify the Executive Appropriations Committee (EAC);

(6)(B)(ii) obtain "review and recommendation" from the EAC; or

(6)(B)(iii) obtain approval from the Legislature.

If approval from the Legislature is required, the Grant Coordinator will ensure grant funds are not accepted until Legislative approval is obtained.

(6)(C) If not approved by the Judicial Council, no funds shall be accepted from the grant and the Grant Coordinator and ~~grant manager~~Grant Manager will notify the ~~granter~~Grantor of the Judicial Council's decision not to accept grant funds.

(6)(D) If grant funds may only be accepted with remedial steps, the Grant Coordinator and ~~grant manager~~Grant Manager will communicate those steps in writing to the ~~granter~~Grantor. The Grant Coordinator and ~~grant manager~~Grant Manager will work with the State Court Administrator to ensure remediation has been accomplished and to determine whether the grant can be resubmitted for Judicial Council approval.

## (7) Grant implementation

~~(7)(A) If required, the \_ Grant Coordinator~~implementation will ~~return~~follow the steps set forth in the ~~executed Notice of Award to the grantor or primary applicant.~~

~~(7)(B) Start date.~~Accounting Manual Section 11-07.00 (E)(7). The ~~grant manager will ensure no grant activities requiring the expenditure of grant funds begin until the start date of the grant project period.~~

### ~~(7)(C) Personnel.~~

~~(7)(C)(i) Positions created as a result of grant funds must be posted and filled in accordance with Human Resource Policies or grant~~following requirements, ~~whichever in 11-07.00 (E)(7) are stricter. Potential employee status hires must be advised that their positions are time limited and will expire at the close of the grant, and are subject to overtime based on Fair Labor Standards Act applied to comparable court employees. Contracted positions are subject to overtime as defined in their executed contract.~~incorporated into this Rule:

~~(7)(C)(ii) Court employees funded by a single award must certify semi-annually to the grant manager and Grant Coordinator that work performed during the period covered by the certification was solely for the funded grant.~~

~~(7)(C)(iii)~~(7)(A) Judicial Council. Grant funds shall only be used to hire permanent full-time or part-time employees if approved by the Judicial Council and in accordance with Utah Code.

~~(7)(D) Fiscal policies.~~ All grant contracts, purchases, and payments, including travel reimbursements, must be processed and submitted in accordance with the Accounting

~~Manual. The grant unit number assigned by Finance must be attached to grant purchases.~~

~~(7)(E) Technology. All grant technology-related equipment and software must be purchased through the IT department. Arrangements for installations will be made through a service ticket to the courts' help desk. Technology purchases designated as "Equipment" by the grant must be tagged and tracked in accordance with grantor policies.~~

~~(7)(F) Judicial/Quasi-Judicial duties.~~ **(7)(B) Judicial/Quasi-Judicial duties.** If impacted by the grant, the presiding judge(s) of each district shall supervise any judicial or quasi-judicial duties required by the grant.

**(8) Grant reporting requirements.** Grant reporting to the Grantor will follow the steps set forth in the Accounting Manual Section 11-07.00 (E)(8). The following requirements in 11-07.00 (E)(8) are incorporated into this Rule:

**(8)(A) Grantor**

~~(8)(A)(i) The Grant Coordinator will maintain a master compliance calendar of all reporting requirements.~~

~~(8)(A)(ii) The grant manager is responsible for reporting to the grantor. Grant reporting may include both financial and milestone-based reports.~~

~~(8)(A)(iii) No later than 10 business days before a grant reporting deadline, the grant manager will forward all associated deliverables to the Grant Coordinator for review and approval by the Grant Coordinator and Director of Finance.~~

~~(8)(A)(iv) If approved by the Grant Coordinator and Director of Finance, the grant manager will be notified to proceed with submission of grant deliverables. If not approved, remedial steps will be communicated to the grant manager to be addressed prior to submission.~~

**~~(8)(B) Judicial Council.~~**

~~(8)(BA)(i)~~ **(8)(BA)(i)** Annually, the Grant Coordinator will complete a compliance self-assessment for all grants in the courts' active portfolio and report the results to the BFMC, Audit Director, and Judicial Council.

~~(8)(BA)(ii)~~ **(8)(BA)(ii)** Quarterly, the Grant Coordinator will prepare a summary of:

~~(8)(BA)(ii)(1)~~ **(8)(BA)(ii)(1)** all existing court grants;

(8)(~~BA~~)(ii)(2) a pipeline of potential future grants inclusive of all grants-in-progress under paragraphs (4) and (5); and

(8)(~~BA~~)(ii)(3) a list of potential grants denied under paragraph (4)(A).

**(9) Changes in budget or scope.**

(9)(A) Any changes to a grant must be documented with a grant amendment, whether or not the ~~grantor or primary applicant~~Grantor requires such documentation. Changes include, but are not limited to:

(9)(A)(i) revisions to the scope or objectives of the overall grant or any portion thereof;

(9)(A)(ii) transfers of funds between different cost categories with no overall budget impact;

(9)(A)(iii) extensions of time to complete grant spending;

(9)(A)(iv) revisions to the amount of funds needed; or

(9)(A)(v) changes in key personnel named in the grant.

(9)(B) Changes may not be implemented until ~~grantor~~Grantor approval is obtained in writing and executed between the parties.

(9)(C) The ~~grant manager~~Grant Manager and Grant Coordinator will work together to prepare grant amendments.

(9)(D) Grant amendments described in paragraph (11)(B) must be approved by the Judicial Council. All other amendments must be reviewed by General Counsel staff and signed by the State Court Administrator or designee.

**(10) Closing out the grant**

~~(10)(A) Audits. Audits by the grantor or other third party of closed grants will be handled by the. Procedures to close out a grant manager, or by the Grant Coordinator if no grant manager is assigned, with assistance from the Finance and Internal Audit departments.~~

~~(10)(B) Documentation. Grant documentation will be retained will follow the steps set forth in accordance with the Accounting Manual or grantor/primary applicant requirements, whichever retention period is longest. Section 11-07.00 (E)(10).~~

**(11) Renewing the grant.**

(11)(A) Judicial Council approval is required for grant renewal, even when there are no changes to scope, purpose, employees, matching, funding amount, or other areas, or when the prior assessment and/or Legislature approvals will not need to be revised. With appropriate documentation and the recommendation of BFMC, the Management Committee may ~~recommend~~review and confirm the grant renewal for Judicial Council approval in the consent calendar.

(11)(B) If a grant renewal involves a change that requires a new incremental assessment, or a change to the number of permanent full or part-time employees, or a grant amount requiring a different approval level than previously obtained, the Grant Coordinator will perform the steps in paragraphs (3) and (4). If the grant qualifies, the Grant Coordinator will resubmit the grant to the BFMC and Judicial Council for approval.

**(12) Letters of support and other non-financial collaborations.**

(12)(A) External partners pursuing their own grant opportunities ("principal applicant") may request the support of the courts as a stakeholder and explicit non-financial collaborator (NFC). Such collaborations are low-risk and provide documented reasonable assurances that no risk nor grant obligations will transfer to the courts directly or indirectly from the principal applicant. Letters of support or similar contributions to grant applications pursued by external partners must (1) be time-limited, (2) not entail the exchange of funds, (3) be non-binding, (4) not include the hiring of court employees, and (5) not commit or otherwise impose financial obligations on the courts.

(12)(A)(i) Agreements meeting all of the criteria in (12)(A) may be referred to the Grant Coordinator who will perform and document a risk assessment to be delivered to the State Court Administrator. If approved by the State Court Administrator or their designee, the Grant Coordinator shall retain a copy of the approval and notify the initiating party of the decision.

(12)(B) If approval is not granted, and assuming sufficient time to comply with this Rule, the State Court Administrator may recommend the request be modified to undergo the full process for Grant Application Proposals, or, withdrawn from all consideration.

(12)(C) All agreements approved or rejected in this process will be documented in the Grant Coordinator's monthly updates to the Budget and Fiscal Management Committee and Judicial Council.

*Effective May/November 1, 20\_\_*

# TAB 5

## Automatic Expungements

**Notes:** Ms. Williams will be seeking approval of automated expungement orders, a draft standing order, and rule 4-208. Below is a brief summary of all of the companion rules governing automatic expungements.

**3-108:** The presiding officer of the Council may appoint a district court presiding judge as the signing judge for automatic expungements in all district courts within the presiding judge's district.

- *District court judges may not sign for justice courts. Justice court presiding judges may sign for justice courts within their judicial district.*

**4-403:** Authorizes judges' electronic signatures to be automatically affixed to automatic expungement orders.

**URCrP 42** (*Back from public comment, but not approved as final*): Identifies cases eligible for automatic expungement and sets forth the procedural requirements.

**4-208** (NEW): Governs the Administrative Office of the Court's development and implementation of an automated expungement process. Processes must meet all requirements under URCrP 42. The Judicial Council must approve all automated processes and the form and content of automated orders.

---

**In the District / Justice Court of Utah**  
**[district\_number] Judicial District, [county\_name] County / [city\_name] City**

---

[prosecuting\_entity – usually “State of Utah”],

Plaintiff,

vs.

[defendant\_name]

[defendant\_dob]

Defendant.

**Order on Automatic  
Expungement of  
Acquittal / Dismissal with Prejudice**

Case Number: [case\_number]

---

The matter before the court is the automatic expungement of the case pursuant to Utah Code § 77-40-114.

This case has been identified by the Judiciary’s automated expungement review process as one meeting the requirements for automated expungement under **Utah Rule of Criminal Procedure 42**. Expunging the records associated with case number [case\_number] is statutorily mandated.

Issuance of this order is authorized by standing order and Utah Code of Judicial Administration Rules **4-208**, 3-108, and 4-403.

**The Court Orders** that the records of defendant’s arrest, investigation, detention, and prosecution related to court case number [case\_number] are hereby expunged.

**Judge’s signature will appear at the top of the first page of this document.**

---

**In the District / Justice Court of Utah**  
**[district\_number] Judicial District, [county\_name] County / [city\_name] City**

---

[prosecuting\_entity – usually “State of Utah”],

Plaintiff,

vs.

[defendant\_name]

[defendant\_dob]

Defendant.

**Order on Automatic  
Expungement of Conviction**

Case Number: [case\_number]

---

The matter before the court is the automatic expungement of the case pursuant to Utah Code § 77-40-114.

This case has been identified by the Judiciary’s automated expungement review process as one meeting the requirements for automated expungement under **Utah Rule of Criminal Procedure 42**. Notice was sent to the prosecuting agency as provided by law and no objection was received within the time allowed. Expunging the records associated with case number [case\_number] is statutorily mandated.

Issuance of this order is authorized by standing order and Utah Code of Judicial Administration Rules **4-208**, 3-108, and 4-403.

**The Court Orders** that the records of defendant’s arrest, investigation, detention, prosecution, and conviction related to court case number [case\_number] are hereby expunged.

**Judge’s signature will appear at the top of the first page of this document.**

---

**In the [district\_number] Judicial District  
State of Utah**

---

**In Re: Automatic Expungements**

**STANDING ORDER**

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TO THE [DISTRICT] [JUSTICE] COURTS IN THE [district\_number] JUDICIAL DISTRICT:

IT IS HEREBY ORDERED that the Administrative Office of the Courts may prepare orders of expungement and automatically affix the presiding judge's signature to such orders, pursuant to the automatic expungement provisions in the Utah Expungement Act, **Utah Rule of Criminal Procedure 42**, and Code of Judicial Administration Rules 3-108, 4-403, and **4-208**.

IT IS FURTHER ORDERED that the Administrative Office of the Courts may automatically issue signed orders of expungement only when the requirements of the Utah Expungement Act, **Utah Rule of Criminal Procedure 42**, and Code of Judicial Administration **Rule 4-208** have been met.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

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[Name], Presiding Judge  
[district\_number] Judicial District

**Rule 4-208. Automatic expungement of cases**

**Intent:**

The intent of this rule is to govern the Administrative Office of the Court's development and implementation of an automated expungement process.

**Applicability:**

This rule applies to cases in district and justice courts.

**Statement of the Rule:**

**(1) Definitions**

(1)(A) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety.

(1)(B) "Clean slate eligible case" means the same as defined in Utah Code §77-40-102.

(1)(C) "Conviction" means a judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(1)(D) "Expunge" means to seal or otherwise restrict access to the individual's record when the record includes a criminal investigation, detention, arrest, or conviction.

**(2) Automated expungement process**

(2)(A) The Administrative Office of the Courts shall develop automated processes for the expungement of eligible court records.

(2)(B) Automated processes must comply with the requirements outlined in **Utah Rule of Criminal Procedure 42** and the Utah Expungement Act.

(2)(C) All automated expungement processes developed by the Administrative Office of the Courts shall be approved by the Utah Judicial Council.

**(3) Standing orders and orders of expungement**

(3)(A) The presiding officer of the Judicial Council may appoint a district court presiding judge as a signing judge for automatic expungements in all district courts within the presiding judge's district in accordance with Rule 3-108.

(3)(B) A justice court presiding judge may act as a signing judge for automatic expungements in all justice courts within the presiding judge's district. The length of the assignment must coincide with the judge's term as a presiding judge.

(3)(C) If the district or justice court presiding judge determines that the requirements under **Utah Rule of Criminal Procedure 42** and **this rule** have been met, the presiding judge shall issue a standing order authorizing the Administrative Office of the Courts to prepare and automatically affix the presiding judge's judicial

37                    signature to orders of expungements issued in relation to cases from that judicial  
38                    district.

39            (3)(D)   The form and content of automated orders of expungement must be approved by  
40                    the Utah Judicial Council.

41    **(4)   Notice of action taken**

42            (4)(A)   The Administrative Office the Courts shall send notice that an order of  
43                    expungement has been issued in accordance with **Utah Rule of Criminal**  
44                    **Procedure 42.**

45

46    *Effective May/November 1, 20*

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

2 **Intent:**

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

4 **Applicability:**

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

7 **Statement of the Rule:**

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

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

11 | (1)(B) to reduce a critical accumulated backlog;

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

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

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

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

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

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

26 | (1)(I) to handle automatic expungement cases.

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

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

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

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

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

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

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

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

(2)(C) availability;

(2)(D) expenses and budget.

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

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

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

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

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

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

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

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

~~May~~November 1, 2021—

**Rule 42. Automatic expungement****(a) Definitions**

(a)(1) "AOC" means the Administrative Office of the Court.

(a)(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety.

(a)(3) "Clean slate eligible case" means the same as defined in Utah Code §77-40-102.

(a)(4) "Conviction" means a judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(a)(5) "Expunge" means to seal or otherwise restrict access to the individual's record when the record includes a criminal investigation, detention, arrest, or conviction.

**(b) Cases eligible for automatic expungement**

(b)(1) Records in the following case types may be expunged automatically:

(b)(1)(A) a case that resulted in an acquittal on all charges;

(b)(1)(B) except as provided in paragraph (b)(2), a case that is dismissed with prejudice; and

(b)(1)(C) a clean slate eligible case.

(b)(2) A case that is dismissed after completion of a plea in abeyance agreement is not eligible for automatic expungement.

(b)(3) Once a month the AOC must identify for each court the cases that are eligible for automatic expungement under (b)(1)(A) and (B). The AOC must separately identify the cases that are clean slate eligible under (b)(1)(C).

**(c) Notice to prosecuting entities**

(c)(1) When a list of clean slate eligible cases is created, the AOC must email a list of eligible cases to the entity that prosecuted the case. The information for each clean slate eligible case must include, at a minimum, the individual's first name, last name, date of birth, and case number.

(c)(2) Every prosecuting entity in the state must provide the AOC with the email address where notices should be sent. The prosecuting entity must immediately notify the AOC if the entity wants the notices sent to a different email address.

(c)(3) The AOC is not required to send the prosecuting entity the lists of cases to be expunged under paragraphs (b)(1)(A) and (b)(1)(B).

**(d) Objection by prosecuting entities**

(d)(1) If the prosecuting entity objects to the expungement of a clean slate eligible case, the prosecuting agency must e-file an objection within 35 days of the date notice was sent under paragraph (d)(1). If an objection is received, the AOC must remove the case from the list of clean slate eligible cases.

(d)(2) Failure to properly e-file an objection will result in the objection being rejected.

(d)(3) After the period for objections has expired, the AOC will provide each court with a list of the remaining clean slate eligible cases.

**(e) Expungement orders**

(e)(1) Upon receiving a list of cases eligible for automatic expungement, the court must issue an expungement order for each eligible case.

(e)(2) The AOC must provide copies of the expungement orders to the bureau and the prosecuting entity.

*Effective* \_\_\_\_\_

# TAB 6

## Rules back from Public Comment

- CJA 3-415. Auditing
- CJA 4-403. Electronic signatures and signature stamp use
- CJA 7-302. Court reports prepared for delinquency cases

**Notes:** No public comments were received regarding these rules. I believe [the one comment posted](#) was related to the wrong rule. It appears the commenter was referring to proposed rule CJA 11-401 on the Standing Committee on Appellate Representation and the Appellate Roster.

### **CJA 3-415. Auditing (AMEND)**

The proposed amendments more clearly define the types of audits conducted by the Audit Department, clarify audit procedures, and identify the individuals involved at critical points.

- No comments

### **CJA 4-403. Electronic signature and signature stamp use (AMEND)**

New Utah Rules of Civil Procedure 7A and 7B, effective May 1, 2021, eliminated the order to show cause process. The proposed amendments allow clerks and judicial assistants to process motions to enforce and still remain within the scope of their delegated authority.

- No comments
- *Approved on an expedited basis with a May 24, 2021 effective date.*

### **CJA 7-302. Court reports prepared for delinquency cases (AMEND)**

The Sentencing Commission released a new Juvenile Disposition Guide that does not provide specific recommendations for disposition, only factors that should be considered.

Under 7-302 currently, probation is required to include the sentencing guideline recommendation that no longer exists. Other requirements in the rule are outdated, do not align with updates to probation policy, and require information that probation officers are not qualified to determine/asses. Proposed amendments align the rule with the statute regarding probation's role in victim restitution (78A-6-117(j)(ix-x)) and the new Juvenile Disposition Guidelines.

- No comments

**Rule 3-415. Auditing.****Intent:**

To establish an internal ~~fiscal~~ audit program for the judiciary within the administrative office.

To examine and evaluate court operations by measuring and evaluating the effectiveness and proper application of programs.

**Applicability:**

This rule shall apply to all courts and the administrative office.

**Statement of the Rule:****(1) ~~Schedule of audits.~~ Audit planning.**

~~(1)(A) Periodic.~~ **Audit planning schedule.** ~~Not less than annually, T~~ the audit director shall annually prepare a plan of scheduled fiscal and ~~program~~ performance audits for submission to and approval by the Council Management Committee. ~~The Board of Justice Court Judges shall provide the audit manager a recommendation of the courts not of record to be included in the annual audit schedule submitted to the Council Management Committee.~~

~~(B) Amendment to schedule. Any modification or change to the approved plan of scheduled audits shall require prior approval by the Council Management Committee.~~

~~(C) Special audits. Requests for special audits not included in the plan shall be submitted in writing to the Council Management Committee and identify the circumstances and need for a special unscheduled audit.~~

**(1)(B) Audit recommendations.** The Board of Appellate Court Judges, the Board of District Court Judges, the Board of Juvenile Court Judges, and the Board of Justice Court Judges may provide the audit director recommendations to be included in the audit plan submitted to the Council Management Committee.

~~(1)(C)(D) Limited audits.~~ **State court administrator authorization.** The state court administrator may authorize a limited scope audit in the event of a reported theft, burglary, or other alleged criminal act or suspected loss of monies or property at a court location, or if a change occurs in the personnel responsible for fiduciary duties ~~the state court administrator may authorize a limited audit.~~

**(1)(D) Amendment to the audit plan schedule.** Any modification or change to the approved plan of scheduled audits shall require prior approval by the Council Management Committee. Requests for audits not included in the plan shall be submitted in writing to the Council Management Committee and identify the need for an unscheduled audit to be included in the plan.

**(2) Authority.** ~~The audit manager shall be independent of the activities audited. The audit manager auditors shall have the authority to conduct audits, consultations, and other engagements in accordance to generally accepted audit principles. The auditors shall be independent of the activities audited, and shall follow generally accepted accounting and performance audit principles for conducting internal audits. The auditors shall have full and unrestricted access to all records, documents, personnel and physical properties determined relevant to the performance of an audit. The auditor~~ managers shall have the

full cooperation and assistance of court personnel in the performance of an audit. ~~The audit manager shall follow generally accepted accounting and performance audit principles for conducting internal audits.~~

(3) **Fiscal audits.** Fiscal audits may consist of one or more of the following objectives:

(3)(A) to verify the accuracy and reliability of financial records;

(3)(B) to assess compliance with ~~management~~ fiscal policies, ~~plans~~, procedures, and ~~best practices~~; regulations;

(3)(C) to assess compliance with applicable laws and rules; ~~and~~

~~(D) to evaluate the efficient and effective use of judicial resources;~~

(3)(~~D~~E) to verify the appropriate protection of judicial assets.

(4) ~~Short audits. When a short audit is required or approved, the audit will be conducted without prior notice. The audit shall consist of a one-time reconciliation of current cash and receipts and an observation of fiscal management procedures unless otherwise directed by the State Court Administrator or Management Committee. A written report shall be prepared and exit conference conducted.~~ Performance audits. Performance auditing is an assessment that provides an objective evaluation about the performance of court operations. Court operations includes any program, activity, project, function, or policy that has an identifiable purpose or set of objectives. Performance audits may contain one or more the following objectives:

(4)(A) to assess the performance and management of court operations against objective criteria;

(4)(B) to determine how efficiently court operations manage resources;

(4)(C) to determine how effectively court operations accomplish goals and objectives;

(4)(D) to assess internal controls and compliance with laws, rules, policies, and best practices;

(4)(E) to provide information and recommendations to improve court operations.

(5) **Audit process.** An audit within the judicial branch may consist of a fiscal audit, a performance audit, or elements of both types of audits. ~~Full audits. When a full~~an audit is required or approved, the audit shall be conducted with prior notice.

(5)(A) An entrance conference shall be conducted between:

(5)(A)(1) **Courts of record:** the auditors, court executive, presiding judge, clerk of court, and state level administrator.

(5)(A)(2) **Courts not of record:** the auditors, justice court judge, ~~a local government representative~~, and state level administrator. The presiding judge may also be invited to attend.

(5)(A)(3) **Administrative offices:** the auditors, state court administrator, deputy court administrator, and department director.

~~The audit shall be conducted at the convenience of the court.~~

(5)(B) An exit conference shall be conducted at the conclusion of the audit. This conference shall include the same individuals attending the entrance conference for both courts of record, courts not of record, and administrative offices. At the exit conference, the auditors shall review the audit findings and recommendations and provide recognition for commendable court operations, when appropriate.

(5)(C) Audit results will be communicated to and approved by the Council Management Committee.

~~(6) Performance audits. During the course of conducting a short or full fiscal audit, the audit manager shall observe and review compliance with programs and procedures established by state law and this Code and make written findings and recommendations to be incorporated in the final report. The performance audit shall include an evaluation of the adequacy, effectiveness and efficiency of court operations and management. Objectivity shall be employed by the auditors at all times. Proper recognition shall be given to commendable court operations when appropriate.~~

**(6) Audit reports.**

(6)(A) The audit ~~manager-director~~ shall prepare a written report containing findings and recommendations as a result of the audit. A draft copy of the report shall be provided ~~in advance~~ prior to the exit conference and presented to:

(6)(A)(1) Court of record: court executive, presiding judge, clerk of court, and state level administrator ~~at the exit conference~~. An opportunity for written response or comment will be afforded the court executive and presiding judge, which will be incorporated into and become part of the final report.

(6)(A)(2) Courts not of record: the presiding judge, justice court judge, and state level administrator ~~at the exit conference~~. If the court and local government are following Accounting Model 2, then a local government representative will receive a draft copy of the sections of the report that pertain to the local government, who receipt and deposit court collected funds. An opportunity for written response or comment will be afforded the justice court judge, and a local government representative if Accounting Model 2 is being followed, which will be incorporated into and become part of the final report.

(6)(A)(3) Administrative offices: state court administrator, deputy court administrator, and department director.

Written responses or comments to reports presented under paragraph (6)(A) shall be provided to the audit director within 30 days.

(6)(B) Copies of the final report shall be provided to:

(6)(B)(1) Courts of record: the Council Management Committee, appropriate Board of Judges, state court administrator, presiding judge, court executive, and state level administrator.

(6)(B)(2) Courts not of record: the Council Management Committee, state court administrator, presiding judge, justice court judge, ~~a local government representative~~, state level administrator, and the Board of Justice Court Judges. A local government representative will receive the sections of the final report that pertain to the local government, if Accounting Model 2 is being followed.

(6)(B)(3) Administrative offices: the Council Management Committee, state court administrator, deputy court administrator, and department director.

**(7) Follow-up review.**

**(7)(A) Courts of record:** Within 12 months of ~~short or full~~ audit, the audit ~~manager~~ director shall provide a Follow-up Review form, including only non-compliance audit findings, to the court executive and copy the court level administrator. The court executive will complete the Follow-up Review form reporting on progress made toward compliance and return a copy of the completed ~~the~~ form within 30 days to the audit ~~manager-director~~ and ~~copy the~~ court level administrator, the presiding judge, and the appropriate board of judges.

**(7)(B) Courts not of record:** Within 12 months of ~~a short or full~~ audit, the audit ~~manager-director~~ shall provide a Follow-up Review form, including only non-compliance audit findings, to the justice court judge and a copy to the state level administrator. The justice court judge will complete the Follow-up Review form reporting on progress made toward compliance and return a copy of the completed form within 30 days to the audit ~~manager-director~~, the state level administrator, the presiding judge, and the Board of Justice Court Judges.

**(7)(C) Administrative offices:** Within 12 months of an audit, the audit director shall provide a Follow-up Review form, including only non-compliance audit findings, to the department director and a copy to the state court administrator. The department director will complete the Follow-up Review form reporting on the progress made toward compliance and return a copy of the completed form within 30 days to the audit director and the state court administrator.

*Effective May/November 1, 20\_\_*

**Rule 4-403. Electronic signature and signature stamp use.****Intent:**

To establish a uniform procedure for the use of judges' and commissioners' electronic signatures and signature stamps.

**Applicability:**

This rule shall apply to all trial courts of record and not of record.

**Statement of the Rule:**

- (1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:
- (1)(A) bail bonds from approved bondsmen;
  - (1)(B) bench warrants;
  - (1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when stipulated by both parties in contested cases;
  - (1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);
  - (1)(E) orders to show cause and orders to appear/attend under URCP 7A(c)(4) and URCP 7B(c)(4);
  - (1)(F) orders to take into custody;
  - (1)(G) summons;
  - (1)(H) supplemental procedure orders;
  - (1)(I) orders setting dates for hearing and for notice;
  - (1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release information concerning a debtor, where neither DWS nor the debtor opposes the motion;
  - (1)(K) orders for transportation of a person in custody to a court hearing, including writs of habeas corpus ad prosequendum and testificandum; and
  - (1)(L) orders appointing a court visitor.
- (2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the document directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.
- (3) ~~In a case where a domestic relations injunction must be issued under URCP 109, the electronic signature of the judge assigned to the case may be automatically attached to the domestic relations injunction form approved by the Judicial Council, without the need for specific direction from the assigned judge and without the need for a clerk's signature accompanying the judge's signature.~~ The electronic signature of a judge may be

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

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

and

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

- (4) All other documents requiring the judge's or commissioner's signature shall be personally signed by the judge or commissioner, unless the judge or commissioner, on a document by document basis, authorizes the clerk to use the judge's or commissioner's electronic signature or signature stamp in lieu of the judge's or commissioner's signature. On such documents, the clerk shall indicate in writing that the electronic signature or signature stamp was used at the direction of the judge or commissioner and shall sign his or her name directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.

*Effective ~~January 1, 2020~~ May 24, 2021*

**Rule 7-302. Court reports prepared for delinquency cases.****Intent:**

To develop minimum standards for court reports to the Juvenile Court.

**Applicability:**

This rule shall apply to all court reports prepared for delinquency cases in the Juvenile Courts.

**Statement of the Rule:**

(1) **Court report.** The probation department or other agency designated by the court shall prepare a court report in writing in all cases in which a petition has been filed.

(2) **Any matter.** The court can direct the probation department to prepare a court report on any matter referred to the court.

(3) **Report contents.** The contents of the court report shall include the following:

(3)(A) a summary of:

(3)(A)(i) the circumstances surrounding the matter before the court;

(3)(A)(ii) the minor's prior referral history, including prior actions taken by the probation department;

(3)(A)(iii) any contacts and history the family has had with other agencies;

(3)(A)(iv) the victim impact statement ~~and an itemized listing of losses or damages suffered by the victim with respect to the matter before the court;~~

(3)(A)(v) responses to the minor's compliant and non-compliant behavior;

(3)(A)(vi) the minor's academic performance and behavior in school and a statement of the minor's employment history if applicable;

(3)(A)(vii) any physical or emotional problems the minor may have that could affect behavior;

(3)(A)(viii) the minor's substance use history; and

(3)(A)(ix) the strengths and weaknesses of the minor as perceived by the minor and the parents or guardian(s); ~~and~~

~~(3)(B) an assessment of:~~

~~(3)(B)(i) the minor's attitude towards the court and the minor's attitude and values in general;~~

~~(3)(B)(ii) the parents' attitude and what corrective action, if any, they took with respect to the minor's conduct and actions that brought the minor before the court; and~~

~~(3)(B)(iii) the strengths and weaknesses of the parents or guardian(s); and~~

- (3)(~~BC~~) the minor's risk level as indicated by a validated risk and needs assessment, as well as a list of risk and protective factors;
- (3)(~~DC~~) recommendations specific to the minor's risk level that consider restorative justice principles and evidence-based best practices;
- (3)(~~DE~~) an acknowledgment that probation considered the Juvenile Disposition Guidelines and if there is a deviation from the statutory presumption or an increase in the level of supervision, the specific factors supporting the deviationsentencing guideline results, including aggravating and mitigating factors; and
- (3)(~~EF~~) any other relevant information.
- (4) **Verification.** All information contained in the court report should be verified whenever possible. Individuals providing information for the report should be identified and any opinions or unverified information should be identified as such.
- (5) **Social information.** No social information shall be gathered on a minor if the minor denies the allegations during the preliminary inquiry unless the minor and parent/guardian or custodian give their written consent for the information to be gathered. (~~6~~) No social information shall be provided to the court before the minor's case is adjudicated.
- (~~6~~7) **Filing.** Once the court report is prepared, it shall be electronically filed in the minor's file.

Effective May/November 1, 20\_\_~~19~~