

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

February 4, 2022 – 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>Rules back from Public Comment:</u> <ul style="list-style-type: none"> • CJA 1-205. Standing and Ad hoc committees • CJA 2-103. Open and closed meetings • CJA 3-420. Committee on Fairness and Accountability • CJA 4-903. Uniform custody evaluations 	Action	Tab 2	Keisa Williams
12:10	CJA 4-302. Recommended Uniform Fine Schedule	Action	Tab 3	Meredith Mannebach
12:15	CJA 1-205. Standing and Ad hoc committees CJA 3-421 (NEW). WINGS Committee	Action	Tab 4	Judge Kelly Shonna Thomas
12:35	CJA 3-407. Accounting	Action	Tab 5	Karl Sweeney
12:45	CJA 6-104. Water law judges	Action	Tab 6	Judge Connors Judge Chiara Judge Appleby
1:00	<u>Internal procedures re judicial misconduct complaints:</u> <ul style="list-style-type: none"> • HR 15-4. Workplace Harassment Investigative Procedures • HR 16-3. Abusive Conduct Investigative Procedures • CJA 3-301.01. State Court Administrator—Complaints and Performance Review; Complaints Regarding Judicial Officers and State Court Employees. • CJA 3-104. Presiding Judges 	Action	Tab 7	Bart Olsen
1:20	CJA 4-202.08. Fees for records, information, and services CJA 4-401.01. Electronic media coverage of court proceedings	Action	Tab 8	Keisa Williams
1:35	CJA 4-202.02. Records classification	Action	Tab 9	Paul Barron
1:45	Old Business/New Business			
2:00	Adjourn			

2022 Meetings:

March 4, 2022

April 1, 2022

May 6, 2022 (all day)

June 3, 2022

July 1, 2022

August 5, 2022

September 2, 2022

October 7, 2022

November 4, 2022 (all day)

December 2, 2022

TAB 1

Minutes

December 3, 2021

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

Webex video conferencing
December 3, 2021: 12 pm -2 pm

DRAFT

MEMBERS:

PRESENT

EXCUSED

Judge Derek Pullan, <i>Chair</i>	•	
Judge Augustus Chin	•	
Judge Samuel Chiara		•
Judge David Connors	•	
Judge Michelle Heward	•	

GUESTS:

Nathanael Player
Lauren Andersen
Judge Fuchs
Judge Gilmore
Michael Drechsel
Bart Olsen
Jim Peters
Paul Barron
Keri Sargent

STAFF:

Keisa Williams
Minhvan Brimhall

(1) Welcome and approval of minutes:

Judge Derek Pullan welcomed committee members and guests. The committee considered the minutes from the November 5, 2021 meeting. With no changes, Judge Heward moved to approve the minutes as presented. Judge Connors seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- **CJA 2-101. Rules for conduct of Council meetings** (*effect 5/1/22*)
- **CJA 5-101. The Board of Appellate Court Judges** (*effect 5/1/22*)
- **CJA 6-101. The Board of District Court Judges** (*effect 5/1/22*)
- **CJA 7-101. Juvenile Court Board, Executive Committee and Council Representatives** (*effect 5/1/22*)
- **CJA 9-101. Board of Justice Court Judges** (*effect 5/1/22*)
- **CJA 3-303. Justice court clerks** (*expedited effect 1/1/22*)
- **CJA 3-117. Committee on Court Forms** (*coming back later*)
- **CJA 3-401. Office of General Counsel** (*effect 5/1/22*)
- **CJA 4-202.02. Records of classification** (*effect 5/1/22*)
- **CJA 4-208. Automatic expungement of cases** (*effect 5/1/22*)

Following a 45-day comment period, no comments were received on any rule.

CJA 2-101, 3-303, 3-401, 4-202.02, 4-208, 5-101, 6-101, 7-101, 9-101:

The amendments to CJA rules 2-101, 5-101, 6-101, 7-101, and 9-101 clarify the manner in which meetings are to be conducted and remove references to Robert's Rules of Order. The amendments to CJA 3-303 create an annual certification requirement for justice court clerks. The amendments to CJA 3-401 clarify the duties of the Office of General Counsel. The amendments to CJA 4-202.02 ensure that statements in support are classified as private

records. New rule CJA 4-208 governs the AOC's development and implementation of an automated expungement process.

Following further discussion and minor language changes, Judge Connors moved to send rules CJA 2-101, 5-101, 6-101, 7-101, 9-101, 4-202.02, and 4-208 to the Judicial Council with a recommendation that they be approved as final with an effective date of May 1, 2022. Judge Heward seconded the motion. The motion passed unanimously.

Judge Connors moved to send rule CJA 3-303 to the Judicial Council with a recommendation that it be approved as final with an expedited effective date of January 1, 2022. Judge Heward seconded the motion. The motion passed unanimously.

CJA 3-117:

Previous amendments to CJA 3-117 removed the requirement that the General Counsel act as staff to the committee, giving the state court administrator the discretion to allocate AOC staff and resources as appropriate. Nathanael Player has now been appointed as staff to the committee. New proposed amendments would remove the requirement that the General Counsel conduct a legal review of every form prior to its adoption. The General Counsel, or designee from the office, may be consulted as needed. New proposed amendments would also clarify the current role and responsibilities of the committee on court forms. Paragraph (4)(d) would allow user testing of future forms where practicable.

Courts across the state would also be required to use standardized court forms. The committee expressed the need for clarification of the difference between standardized and mandatory forms, and noted that districts may need to modify forms to address differences in local practice and resources or to quickly address an issue. One option might be to allow modification, provided the proposal is submitted to the Forms Committee for approval prior to use if practicable, or within a specified period of time following the modification if not practicable.

After further discussion, the committee determined that the rule proposal needs more review and recommended that Mr. Player seek feedback from the boards of judges.

(3) CJA 2-103. Open and closed meetings: (approved to send to JC for public comment)

The proposed amendments were requested by the Judicial Council at their November 22, 2021 meeting. The amendments: 1) remove the requirement that the AOC send a separate notification to a newspaper of general circulation when Council meeting agendas are posted on the Utah Public Notice Website, and 2) clarify that a Judicial Council meeting may be closed for discussions regarding legal advice of counsel.

Judge Heward moved to send rule CJA 2-103 to the Judicial Council with a recommendation that it be posted for a 45-day public comment period. Judge Connors seconded the motion. The motion passed unanimously.

(4) CJA 3-403. Judicial branch education.

The proposed amendments to CJA 3-403 were requested by the Standing Education Committee. The amendments would require all judicial officers to attend or participate in the annual judicial conference, unless otherwise excused by the Presiding Judge. Both in-person and virtual participation would be allowed. Judicial officers would be encouraged to attend in-person (when possible) or live through Webex, but recordings of the sessions would be made available for viewing when attendance is not possible.

The committee discussed concerns with the requirements as proposed. One concern was that a mandate for justice court judges may have a fiscal impact on cities and counties. The committee recommended that the Standing Education Committee meet with the respective boards of judges and the presiding judges from each district to gather their input on ways to encourage attendance at the annual conference.

(5) Problem Solving Courts (best practice #3):

Judge Fuchs recommended an amendment to best practice #3 on the problem solving court certification checklist. Currently, only participants that present as high risk and high need on the RANT (an approved validated assessment tool) may be admitted into the program. The proposed amendment would continue that practice, however, if a program is unable to target a high risk, high need offender, the program would develop an alternative track with services that can be modified to meet the risk and need levels of the participant. The proposed amendments would meet national best practice standards.

Following discussion, Judge Connors moved to send the proposed amendment to the Judicial Council with a recommendation that it be approved as final. Judge Heward seconded the motion. The motion passed unanimously.

(6) CJA 6-303. Collection of fines and restitution (expedited effective date 1/1/22)

The proposed amendments to CJA 6-303 are necessary to conform to statutory changes made during the 2021 Legislative session in HB 260. The Department of Corrections is no longer responsible for collecting any criminal accounts receivable for sentences imposed on or after July 1, 2021. They continue to be responsible for accounts receivable on cases sentenced before July 1, 2021.

Judge Connors moved to send rule CJA 6-303 to the Judicial Council with a recommendation that it be approved as final with an expedited effective date of January 1, 2022. Judge Chin seconded the motion. The motion passed unanimously.

(7) Internal procedures re judicial misconduct complaints:

- **HR 15-4. Workplace Harassment Investigative Procedures**
- **HR 16-3. Abusive Conduct Investigative Procedures**
- **CJA 3-301.01. State Court Administrator – Complaints and Performance Review; Complaints Regarding Judicial Officers and State Court Employees**

The proposed amendments to HR 15-4, HR 16-3, and CJA 3-301.01 are intended to streamline and memorialize procedures related to internal reports of alleged *judicial* misconduct involving court employees and/or other judicial officers, and (where appropriate and allowed under the law) to make the procedures more consistent with those related to similar reports of alleged *employee* misconduct. CJA 3-104(3)(K) outlines the actions Presiding Judges are authorized to take when “another judge or commissioner of the court fails to comply with a reasonable administrative directive of the presiding judge, interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct.”

The committee reviewed comments from Judge Chiara. The committee expressed concerns regarding the minimal amount of information the alleged person would receive about the allegations at the beginning of an investigation, while highlighting the need to protect the identity of the victim and the importance of preserving evidence. The committee discussed adding a provision wherein the Chief Justice or Presiding Judge would issue a directive at the beginning of an investigation preventing the destruction of evidence prior to or during the investigative process.

The committee determined that a more comprehensive review of the proposed amendments are necessary. Mr. Olsen will meet individually with each committee member and will meet with the respective boards for input.

Old Business/New Business: None

Adjourn: With no further items for discussion the meeting adjourned. The next meeting will be held on January 7, 2022 at 12 PM via Webex video conferencing.

TAB 2

Rules back from Public Comment

CJA 1-205. Standing and Ad hoc committees

CJA 2-103. Open and closed meetings

CJA 3-420. Committee on Fairness and Accountability

CJA 4-903. Uniform custody evaluations

Notes: The public comment period on these rules closes on Thursday (Feb. 3rd), so it's possible that more comments may come in between now and the meeting. In an effort to keep things moving, however, I've added them to the agenda. If a substantive comment comes in after the materials are sent and the committee does not have time to address it, we can move it to the March meeting.

To date (1/31), only one comment has been received and it addresses rule 4-903:

Mary Catherine Rutledge

December 20, 2021 at 2:16 pm

CJA04-903: I disagree with 2(H). The party requesting a written report should NOT necessarily have to pay for it. This rule incentivizes the "loser" of a custody evaluation from settling at a 4-903 conference. The person wanting to call the evaluator as a witness would automatically be forced to pay for the report even though the evaluator may have determined custody in them is in the child's best interest. Moreover, the rule doesn't recognize why the evaluation was ordered. It could have come from a petition to modify stemming from an allegation of child abuse or domestic violence. The evaluation could have been ordered to help the court reassess the parenting plan contained in the decree. The rule that the party requesting the report pays for it can act to keep the evaluation from the court if the abuser refuses to accept the evaluation and, instead, forces the innocent party to request and pay for the report in order to try the case.

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

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

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

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

Applicability:

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

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

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

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

(1)(B) Composition.

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

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

- (1)(B)(i)(b) one justice court judge;
- (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
- (1)(B)(i)(d) two court executives;
- (1)(B)(i)(e) two court clerks; and
- (1)(B)(i)(f) two staff members from the Administrative Office.

(1)(B)(ii) The **Uniform Fine Schedule Committee** performs the duties described in rule 4-302 and shall consist of:

- (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
- (1)(B)(ii)(b) three district court judges who have experience with a misdemeanor docket; and
- (1)(B)(ii)(c) four justice court judges.

(1)(B)(iii) The **Ethics Advisory Committee** performs the duties described in rule 3-109 and shall consist of:

- (1)(B)(iii)(a) one judge from the Court of Appeals;
- (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iii)(d) one juvenile court judge;
- (1)(B)(iii)(e) one justice court judge; and
- (1)(B)(iii)(f) an attorney from either the Bar or a college of law.

(1)(B)(iv) The **Judicial Branch Education Committee** performs the duties described in rule 3-403 shall consist of:

- (1)(B)(iv)(a) one judge from an appellate court;
- (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iv)(d) one juvenile court judge;
- (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
- (1)(B)(iv)(f) one state level administrator;
- (1)(B)(iv)(g) the Human Resource Management Director;
- (1)(B)(iv)(h) one court executive;
- (1)(B)(iv)(i) one juvenile court probation representative;
- (1)(B)(iv)(j) two court clerks from different levels of court and different judicial districts;
- (1)(B)(iv)(k) one data processing manager; and
- (1)(B)(iv)(l) one adult educator from higher education.

(1)(B)(iv)(m) The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.

(1)(B)(v) The **Court Facility Planning Committee** performs the duties described in rule 3-409 and shall consist of:

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

(1)(B)(vi) The **Committee on Children and Family Law** performs the duties described in rule 4-908 and shall consist of:

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

the committee may appoint non-members to serve on its subcommittees.

(1)(B)(vii) The **Committee on Judicial Outreach** performs the duties described in rule 3-114 and shall consist of:

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

(1)(B)(viii) The **Committee on Resources for Self-represented Parties** performs the duties described in rule 3-115 and shall consist of:

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

(1)(B)(viii)(k) two community representatives.

(1)(B)(ix) The **Language Access Committee** performs the duties described in rule 3-306.02 and shall consist of:

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

(1)(B)(ix)(b) one juvenile court judge;

(1)(B)(ix)(c) one justice court judge;

(1)(B)(ix)(d) one trial court executive;

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

(1)(B)(ix)(f) one interpreter coordinator;

(1)(B)(ix)(g) one probation officer;

(1)(B)(ix)(h) one prosecuting attorney;

(1)(B)(ix)(i) one defense attorney;

(1)(B)(ix)(j) two certified interpreters;

(1)(B)(ix)(k) one approved interpreter;

(1)(B)(ix)(l) one expert in the field of linguistics; and

(1)(B)(ix)(m) one American Sign Language representative.

(1)(B)(x) The **Guardian ad Litem Oversight Committee** performs the duties described in rule 4-906 and shall consist of:

(1)(B)(x)(a) seven members with experience in the administration of law and public services selected from public, private and non-profit organizations.

(1)(B)(xi) The **Committee on Model Utah Civil Jury Instructions** performs the duties described in rule 3-418 and shall consist of:

(1)(B)(xi)(a) two district court judges;

(1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;

(1)(B)(xi)(c) four lawyers who primarily represent defendants; and

(1)(B)(xi)(d) one person skilled in linguistics or communication.

(1)(B)(xii) The **Committee on Model Utah Criminal Jury Instructions** performs the duties described in rule 3-418 and shall consist of:

(1)(B)(xii)(a) two district court judges;

(1)(B)(xii)(b) one justice court judge;

(1)(B)(xii)(c) four prosecutors;

(1)(B)(xii)(d) four defense counsel; and

~~(1)(B)(xii)(e) one professor of criminal law; and~~

~~(1)(B)(xii)(f)~~(1)(B)(xii)(e) one person skilled in linguistics or communication.

(1)(B)(xiii) The **Committee on Pretrial Release and Supervision** performs the duties described in rule 3-116 and shall consist of:

- (1)(B)(xiii)(a) two district court judges;
- (1)(B)(xiii)(b) two justice court judges;
- (1)(B)(xiii)(c) one prosecutor;
- (1)(B)(xiii)(d) one defense attorney;
- (1)(B)(xiii)(e) one county sheriff;
- (1)(B)(xiii)(f) one representative of counties;
- (1)(B)(xiii)(g) one representative of a county pretrial services agency;
- (1)(B)(xiii)(h) one representative of the Utah Commission on Criminal and Juvenile Justice;
- (1)(B)(xiii)(i) one commercial surety agent;
- (1)(B)(xiii)(j) one state senator;
- (1)(B)(xiii)(k) one state representative;
- (1)(B)(xiii)(l) the Director of the Indigent Defense Commission or designee;
- (1)(B)(xiii)(m) one representative of the Utah Victims' Council;
- (1)(B)(xiii)(n) one representative of a community organization actively engaged in pretrial justice issues;
- (1)(B)(xiii)(o) one chief of police; and
- (1)(B)(xiii)(p) the court's general counsel or designee.

(1)(B)(xiv) The **Committee on Court Forms** performs the duties described in rule 3-117 and -shall consist of:

- (1)(B)(xiv)(a) ~~one~~two district court judges;
- (1)(B)(xiv)(b) one court commissioner;
- (1)(B)(xiv)(c) one juvenile court judge;
- (1)(B)(xiv)(d) one justice court judge;
- (1)(B)(xiv)(e) one court clerk;
- (1)(B)(xiv)(f) one appellate court staff attorney;
- (1)(B)(xiv)(g) one representative from the Self-Help Center;
- (1)(B)(xiv)(h) the State Law Librarian;
- (1)(B)(xiv)(i) the ~~Court Services Director~~district court administrator or designee;

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

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

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

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

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

(1)(B)(xiv)(o) the LPP administrator.-

(1)(B)(xv) The **Committee on Fairness and Accountability** performs the duties described in rule 3-420. The committee shall include members who demonstrate an interest in, or who have experience with, issues of diversity, equity, and inclusion and shall consist of:

(1)(B)(xv)(a) one sitting judge;

(1)(B)(xv)(b) three current or former judicial officers;

(1)(B)(xv)(c) the General Counsel or designee; and

(1)(B)(xv)(d) the Director of the Office of Fairness and Accountability.

(1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each standing committee. Standing committees shall meet as necessary to accomplish their work. Standing committees shall report to the Council as necessary but a minimum of once every year. Except for the Committee on Judicial Fairness and Accountability, c~~C~~ouncil members may not serve, participate or vote on standing committees. Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions and vote. All members designated by this rule may make motions and vote unless otherwise specified. Standing committees may form subcommittees as they deem advisable.

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

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

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or

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

(3) **General provisions.**

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

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

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

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

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective reappointee's service on the committee, the attendance record of the prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

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

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

(3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive terms on a committee unless the Council

270 determines that exceptional circumstances exist which justify service of more than
271 two consecutive terms.

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

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

277 Effective May/November 1, 20__~~21~~

Rule 2-103. Open and closed meetings.**Intent:**

To establish the Council's responsibility for providing public notice of its meetings and to ensure the opportunity for public attendance at Council meetings.

To establish procedures consistent with the philosophy of the Utah Open and Public Meetings Act.

To provide the Council with sufficient flexibility to close meetings when discussing matters of a sensitive nature.

Applicability:

This rule shall apply to all meetings of the Council.

Statement of the Rule:

(1) **Definitions.** As used in this rule, "meeting" means the gathering of a quorum of the Council, whether in person or by means of electronic communication, for the purpose of discussing or acting upon any matter over which the Council has jurisdiction, but does not include a chance or social meeting of Council members.

(2) Public notice of meetings.

(2)(A) After the Council has set its annual meeting schedule, the administrative office of the courts shall publish on the court's website and on the Utah Public Notice Website the date, time and place of the meetings. At least 24 hours before each meeting, the administrative office of the courts shall post on the websites the meeting agenda, ~~and notify at least one newspaper of general circulation within the state of the postings.~~ The administrative office of the courts shall notify a media agency of the postings by email upon request for routine notice. The Council may address a matter not on the meeting agenda but will take no final action on the matter.

(2)(B) When, due to unforeseen circumstances, it is necessary for the Council to consider matters of an urgent nature, the requirement of public notice may be suspended and the best notice practicable given. No such meeting of the Council shall be held unless:

(2)(B)(i) an attempt has been made to notify all members;

(2)(B)(ii) at least a quorum is present; and

(2)(B)(iii) a majority of those present vote to hold the meeting.

(3) **Open meetings.** Meetings of the Council are open to the public unless closed as provided in this rule.

(4) **Reasons for closed meetings.** A closed meeting of the Council may be held for discussions regarding any of the following:

(4)(A) the character, professional competence, or physical or mental health of an individual;

(4)(B) collective bargaining or litigation;

(4)(C) legal advice of counsel;

(4)(~~DE~~) the purchase, exchange or lease of real property if public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(~~DE~~) the sale of real property if:

(4)(~~ED~~)(i) public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(~~ED~~)(ii) the Council has previously given public notice that the property would be offered for sale; and

(4)(~~ED~~)(iii) the terms of the sale are publicly disclosed before the Council approves the sale;

(4)(~~EE~~) deployment of security personnel or devices;

(4)(~~GF~~) allegations of ~~criminal~~ misconduct; or

(4)(~~HG~~) consideration of a private, protected, sealed, juvenile court social, juvenile court legal, or safeguarded record as defined in Rule 4-202.02.

(5) Procedure for closing a meeting.

(5)(A) A closed meeting may be held only upon the affirmative vote of two-thirds of the members present at an open meeting for which public notice is given, provided a quorum is present.

(5)(B) The recording and minutes otherwise required by Rule 2-104 shall not be made if a meeting is closed ~~to discuss the character, competence, or physical or mental health of an individual or to discuss the deployment of security personnel or devices.~~ The presiding officer shall sign a sworn statement, which is a public record, affirming that the sole purpose for closing the meeting is to discuss ~~the character, competence, or physical or mental health of an individual or the deployment of security personnel, devices, or systems~~ one of the issues outlined in paragraph (4).

(6) Limit on actions at a closed meeting. No contract, appointment, rule, or resolution may be approved at a closed meeting. A contract, appointment, rule, or resolution approved at an open meeting may be based upon discussions had at a closed meeting.

(7) **Limit on discussions outside of closed meeting.** No one who attends a closed meeting may disclose information discussed or materials distributed outside of the closed meeting except with:

(7)(A) others who participated in the closed meeting, and

(7)(B) a member of the Judicial Council.

(8) **Right of removal.** All or any part of an open meeting may be recorded by any person in attendance, provided the recording does not interfere with the conduct of the meeting. The Council may order the removal of any person who disrupts a meeting.

(9) **Training.** The administrative office of the courts shall annually train the members of the Council on the requirements of this rule and of Rule 2-104.

Effective ~~November~~ May 1, 2022~~1~~

Rule 3-420. Committee on Fairness and Accountability

Intent

This rule establishes the Committee on Fairness and Accountability to serve as a core leadership team for the Office of Fairness and Accountability. One purpose of the committee is to provide support and guidance to the Office of Fairness and Accountability, and to provide expertise and guidance to the Judicial Council regarding how to best support the work of the Office of Fairness and Accountability.

Applicability

This rule applies to the judiciary.

Statement of the Rule

The Committee on Fairness and Accountability shall:

(1) Advise the Director of the Office of Fairness and Accountability (Director) regarding the development of baseline metrics of demographic data for individuals who interact with the judiciary.

(2) Develop a strategic plan with the Director for the Office of Fairness and Accountability and submit the strategic plan to the Judicial Council for approval. The committee may form subcommittees to develop the strategic plan. The strategic plan shall include the Judiciary's goals and policy directives for meeting the court's mission for the open, fair and efficient administration of justice under the law while also being responsive to the state's cultural, ethnic, socioeconomic, linguistic, physical, gender, and age diversities. Branch efforts in this regard will strive to eliminate bias and the appearance of bias, meet the needs of increasing numbers of self-represented litigants, remain receptive to the needs of all branch constituents, ensure that court procedures are fair and understandable, and provide culturally responsive programs and services.

(3) Once the initial strategic plan is approved by the Judicial Council, assist the Director with:

(3)(A) Determining which stakeholder groups should be involved in determining how to implement the strategic plan;

(3)(B) Appointing a functional team or teams; and

(3)(C) Facilitating the work of the functional team(s) to develop implementation plans and provide feedback about the strategic plan to the Committee on Fairness and Accountability;

(4) Receive input from the functional team(s) and determine if changes to the strategic plan should be recommended to the Judicial Council.

47

48 (5) Assist the Director with communicating the strategic plan to the judiciary.

49

50 (6) Assist the Director with monitoring Court progress in implementing the strategic plan and
51 developing metrics.

52

53 (7) Provide expertise and support to the Director when the Director interacts with the Judicial
54 Council, the benches, and the districts.

55

56 (8) Assist the Director in cooperating with the executive and legislative branches to implement
57 the strategic plan.

58

59 Effective May/November 1, 20__

Rule 4-903. Uniform custody evaluations.**Intent:**

To establish uniform guidelines for the performance of custody evaluations.

Applicability:

This rule shall apply to the district and juvenile courts.

Statement of the Rule:

~~(1) Custody evaluations shall be performed by professionals who have specific training in child development, and who are licensed by the Utah Department of Occupational and Professional Licensing as either a:~~

~~(1)(A) Licensed Clinical Social Worker;~~

~~(1)(B) Licensed Psychologist;~~

~~(1)(C) Licensed Physician who is board certified in psychiatry;~~

~~(1)(D) Licensed Marriage and Family Therapist; or~~

~~(1)(E) Licensed Clinical Mental Health Counselor.~~

(14) The purpose of the a custody evaluation will be is to provide the court with information it can use to make decisions regarding custody and parenting time arrangements that are in the a child's best interest. Unless otherwise specified in the order, evaluators must consider and respond to the custody factors set forth in Utah Code sections 30-3-10 and 30-3-10.2.

(2) Custody evaluations shall be ordered only when a party requests it or when the court makes specific findings that extraordinary circumstances exist that warrant an evaluation. In either case, before appointing a custody evaluator, the court must find that the parties have a present ability to pay for the evaluation.

(32) Every motion or stipulation for the performance of a custody evaluation shall include:

(32)(A) the name, address, and telephone number of each evaluator nominated, or the evaluator agreed upon;

(32)(B) the anticipated dates of commencement and completion of the evaluation and the estimated cost of the evaluation;

(32)(C) specific factors, if any, to be addressed in the evaluation: and-

(3)(D) a copy of each proposed evaluator's recent curriculum vitae attached as exhibits
The curriculum vitae must demonstrate compliance with the training
requirements in paragraph (7).

(43) Every order requiring the performance of a custody evaluation shall:

(43)(A) require the parties to cooperate as requested by the evaluator;

(43)(B) restrict disclosure of the evaluation's findings or recommendations and privileged information obtained except in the context of the subject litigation or other proceedings as deemed necessary by the court;

(43)(C) assign responsibility for payment from the beginning of the evaluation through the custody evaluation conference, as well as the costs of the written report if requested subject to reallocation at the time of trial;

(43)(D) specify dates for commencement and completion of the evaluation;

(43)(E) specify any additional factors to be addressed in the evaluation;

(43)(F) require the evaluator to provide written notice to the court, counsel and parties within five business days of completion (of information-gathering) or termination of the evaluation and, if terminated, the reason;

(43)(G) require counsel and parties to complete a custody evaluation conference with the court and the evaluator within 45 days of notice of completion (of information gathering) or termination unless otherwise directed by the court so that evaluator may issue a verbal report; and

(43)(H) require that any party wanting a written custody evaluation report give written notice to the evaluator within 45 days after the custody evaluation conference.
The party requesting the written report shall pay for the costs of the same,
subject to reallocation at the time of trial.

~~(4) The purpose of the custody evaluation will be to provide the court with information it can use to make decisions regarding custody and parenting time arrangements that are in the child's best interest. Unless otherwise specified in the order, evaluators must consider and respond to the custody factors set forth in Utah Code sections 30-3-10 and 30-3-10.2.~~

(54) Custody evaluations shall be performed by ~~mental health~~ professionals who have specific training in child development, and who are licensed by the Utah Department of Occupational and Professional Licensing as either a:

(54)(A) Licensed Clinical Social Worker;

(54)(B) Licensed Psychologist;

(54)(C) Licensed Physician who is board certified in psychiatry;

(54)(D) Licensed Marriage and Family Therapist; or

(54)(E) Licensed Clinical Mental Health Counselor.

(6) Child custody evaluators shall gain and maintain specialized knowledge and training in a wide range of topics specifically related to child custody work. Evaluators shall gain broad knowledge of family dynamics. Since research and laws pertaining to the field of divorce or separation and child custody are continually changing and advancing, child custody evaluators shall secure ongoing specialized training and education.

(7) Before accepting appointment, a child custody evaluator shall have completed 18 hours of education and training within the past two years, coinciding with the professional's licensure reporting deadlines, which must include all the following topics:

(7)(A) The psychological and developmental needs of children, especially as those needs relate to decisions about child custody and parent-time;

(7)(B) Family dynamics, including, but not limited to, parent-child relationships, blended families, and extended family relationships; and

(7)(C) The effects of separation, divorce, domestic violence, child sexual abuse, child physical or emotional abuse or neglect, substance abuse, and interparental conflict on the psychological and developmental needs of children and adults.

(85) In cases in which specific areas of concern exist such as domestic violence, sexual abuse, substance abuse, mental illness, and the evaluator does not possess specialized training or experience in the area(s) of concern, the evaluator shall consult with those having specialized training or experience. The assessment shall take into consideration the potential danger posed to the child's custodian and the child(ren).

(9) Evaluators having conducted fewer than three (3) evaluations shall consult with another professional who meets the education, experience, and training requirements of this rule, sufficient to review, instruct, and comment on the entire evaluation process.

(106) In cases in which psychological testing is employed as a component of the evaluation, it shall be conducted by a licensed psychologist who is trained in the use of the tests administered, and adheres to the ethical standards for the use and interpretation of psychological tests in the jurisdiction in which he or she is licensed to practice. ~~If psychological testing is conducted with adults and/or children, it shall be done with knowledge of the limits of the testing and should be viewed within the context of information gained from clinical interviews and other available data. Conclusions drawn from psychological testing should take into account the inherent stresses associated with divorce and custody disputes.~~ The evaluator shall consider the psychological testing results with the understanding that they are hypotheses that need to be supported by and integrated with all other data gathered.

Effective May/November 1, 20__19

TAB 3

CJA 3-402. Recommended Uniform Fine Schedule

Notes: Meredith Mannebach recommends removing the term “schedule” from the title of the committee (line 1). The committee’s name change was approved by the Management Committee in May 2020, but the rule wasn’t amended to reflect the change.

While we’re amending the rule, I took the opportunity to clean up the formatting, move paragraphs around to where they make the most sense, and add a sentence to the “intent” section to note that the rule also creates and outlines the committee’s responsibilities.

Policy and Planning - Rule Amendment Request Form

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

Instructions

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

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

Date of Request *

MM DD YYYY

12 / 15 / 2021

Name of Requester *

Meredith Mannebach

Requester Phone Number *

801-238-7569

Name of Requester's Supervisor *

Shane Bahr

Location of the Rule *

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name *

R -4-302

Brief Description of Rule Proposal *

remove "schedule" from the rule.

Reason Amendment is Needed *

This was voted and approved by Management committee in May 2020 as a change

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.

management committee May 2020

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

uniform Fine committee

This form was created inside of Utah State Courts.

Google Forms

Rule 4-302. Recommended Uniform Fine Schedule.**Intent:**

To establish a committee to review and recommend adjustments to the Uniform Fine Schedule.

To provide a guideline for courts in setting fines in felony and misdemeanor cases in order to promote uniformity and consistency in setting fines for similar offenses in all courts.

To assist the sentencing judge in determining the appropriate fine to be imposed as a condition of the sentence in a particular case, and to minimize disparity in sentencing for similar offenses and offenders.

Applicability:

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

Statement of the Rule:

(1) **Uniform Fine Committee.** The Uniform Fine ~~Schedule~~ Committee shall establish a uniform fine schedule setting forth recommended fine amounts for all criminal and traffic offenses, pursuant to the Utah Code. The fine schedule shall be reviewed and approved by the Council.

(1)(A) Computerized schedule. For automated courts, the committee shall oversee and monitor input to the computerized fine schedule to ensure that the fine amounts are consistent with the uniform fine schedule approved by the Council.

(1)(B) Meetings. The committee shall meet at least once annually to review the uniform fine schedule and recommend adjustments in the schedule as necessary.

(1)(C) Notice of meetings. Notice of the committee's meetings shall be provided to interested agencies, as designated by the committee, to provide such agencies an opportunity to appear before the committee and present proposals for changes to the uniform fine schedule.

(2) **Recommended Uniform Fine Schedule.** The recommended fine for each offense shall be proportional to the seriousness of the offense and the offender's criminal history, and shall be consistent with the Utah Sentencing Guidelines developed by the Utah Commission on Criminal and Juvenile Justice.

~~(23)~~(A) The uniform recommended fine schedule shall consist of a felony schedule and a misdemeanor schedule.

~~(24)~~(B) The uniform recommended fine schedule shall include criteria for aggravating and mitigating circumstances, and shall not limit the authority of the court to impose a sentence deemed just in the discretion of the judge.

~~(2)(C) (6)~~ The approved uniform fine schedule shall be published as an appendix to this Code and distributed to appropriate state and local law enforcement agencies.

(2)(D) When imposing fines, courts should conform to the uniform fine schedule except in cases where aggravating or mitigating circumstances warrant a deviation from the schedule.

(35) **Presentence investigation reports.** Presentence investigation reports shall include a recommended disposition for each case based upon the individual's circumstances. The reports shall include a recommended fine based upon the schedule or a recommendation that no fine be imposed, and a recommendation of incarceration, probation or other alternative. In Class B misdemeanor cases, the presentence investigation report shall include such a recommended disposition for each case if specifically requested by the referring judge.

~~(6) The approved uniform fine schedule shall be published as an appendix to this Code and distributed to appropriate state and local law enforcement agencies.~~

-

~~(7) The committee shall meet at least once annually to review the uniform fine schedule and recommend adjustments in the schedule as necessary.~~

-

~~(8) Notice of the committee's meetings shall be provided to interested agencies, as designated by the committee, to provide such agencies an opportunity to appear before the committee and present proposals for changes to the uniform fine schedule.~~

~~(9) When imposing fines, courts should conform to the uniform fine schedule except in cases where aggravating or mitigating circumstances warrant a deviation from the schedule.~~

-

Effective May 1~~2~~, 202~~2~~0

TAB 4

CJA 1-205. Standing and Ad hoc committees
CJA 3-421 (NEW). WINGS Committee

Notes: See attached memo

Policy and Planning - Rule Amendment Request Form

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

Instructions

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

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

Date of Request *

MM DD YYYY

01 / 24 / 2022

Name of Requester *

Shonna Thomas

Requester Phone Number *

801-578-3925

Name of Requester's Supervisor *

Keri Sargent / Shane Bahr

Location of the Rule *

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name *

1-205

Brief Description of Rule Proposal *

The Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) is looking to become a committee under the supervision of the Judicial Council, as outlined in CJA Rule 1-205.

Reason Amendment is Needed *

Judicial Council supervision will ensure a formal succession plan for the leadership of WINGS, along with better statewide participation from the judiciary and court staff.

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. *

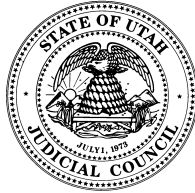
- ☐ Accounting Manual Committee
- ☐ ADR Committee
- ☐ Board of Appellate Court Judges
- ☐ Board of District Court Judges
- ☐ Board of Justice Court Judges
- ☐ Board of Juvenile Court Judges
- ☐ Board of Senior Judges
- ☐ Budget and Fiscal Management Committee
- ☐ Children and Family Law Committee
- ☐ 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 members of WINGS (currently 26 stakeholders)
Administrative Office of the Courts
Guardianship Reporting and Monitoring Program (GRAMP)



Administrative Office of the Courts

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

January 31, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council
FROM: Judge Keith Kelly – WINGS Chair
Shonna Thomas, Program Coordinator - GRAMP
RE: WINGS Committee - Request for Formal Rule

The Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) is a problem solving body that relies on court-community partnerships to:

- Oversee guardianship practice in the Courts.
- Improve the handling of guardianship cases.
- Engage in outreach/education.
- Enhance the quality of care and quality of life of vulnerable adults.

The WINGS committee is effective through the participation of key stakeholders who understand and are in a position to improve the Courts' guardianship processes.

WINGS was formed in 2013 and the committee presents annually to the Judicial Council. However, WINGS has operated with no formal designation under the CJA. Judicial Council supervision will ensure a formal succession plan for the leadership of WINGS, along with better statewide participation from the judiciary and court staff.

WINGS stakeholders have held discussions on the benefits of seeking approval as a formal committee supervised by the Judicial Council. On December 9, 2021, the stakeholders unanimously approved the proposed amendment to CJA Rule 1-205 to include the WINGS committee, along with a proposed CJA rule governing WINGS.

WINGS has successfully pursued many projects over the past few years, and we believe that having a formal CJA rule governing WINGS will only improve the committee's success. Please consider this a formal request for enactment of the attached proposed amendments and the formal designation of WINGS as a committee under the Judicial Council.

1 Rule 1-205. Standing and Ad Hoc Committees.**2 Intent:**

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

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

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

8 Applicability:

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

10 Statement of the Rule:**11 (1) Standing Committees.**

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

14 (1)(A)(i) Technology Committee;

15 (1)(A)(ii) Uniform Fine Schedule Committee;

16 (1)(A)(iii) Ethics Advisory Committee;

17 (1)(A)(iv) Judicial Branch Education Committee;

18 (1)(A)(v) Court Facility Planning Committee;

19 (1)(A)(vi) Committee on Children and Family Law;

20 (1)(A)(vii) Committee on Judicial Outreach;

21 (1)(A)(viii) Committee on Resources for Self-represented Parties;

22 (1)(A)(ix) Language Access Committee;

23 (1)(A)(x) Guardian ad Litem Oversight Committee;

24 (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;

25 (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;

26 (1)(A)(xiii) Committee on Pretrial Release and Supervision; and

27 ~~(1)(A)(xiv) Committee on Court Forms; and~~

28 ~~(1)(A)(xv) Committee on Judicial Fairness and Accountability; and~~

29 ~~(1)(A)(xiv)(1)(A)(xvi) Working Interdisciplinary Network of Guardianship~~
30 ~~Stakeholders (WINGS).~~

31 (1)(B) **Composition.**

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

- (1)(B)(i)(a) one judge from each court of record;
- (1)(B)(i)(b) one justice court judge;
- (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
- (1)(B)(i)(d) two court executives;
- (1)(B)(i)(e) two court clerks; and
- (1)(B)(i)(f) two staff members from the Administrative Office.

(1)(B)(ii) The **Uniform Fine Schedule Committee** performs the duties described in rule 4-302 and shall consist of:

- (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
- (1)(B)(ii)(b) three district court judges who have experience with a misdemeanor docket; and
- (1)(B)(ii)(c) four justice court judges.

(1)(B)(iii) The **Ethics Advisory Committee** performs the duties described in rule 3-109 and shall consist of:

- (1)(B)(iii)(a) one judge from the Court of Appeals;
- (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iii)(d) one juvenile court judge;
- (1)(B)(iii)(e) one justice court judge; and
- (1)(B)(iii)(f) an attorney from either the Bar or a college of law.

(1)(B)(iv) The **Judicial Branch Education Committee** performs the duties described in rule 3-403 shall consist of:

- (1)(B)(iv)(a) one judge from an appellate court;
- (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iv)(d) one juvenile court judge;
- (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
- (1)(B)(iv)(f) one state level administrator;
- (1)(B)(iv)(g) the Human Resource Management Director;
- (1)(B)(iv)(h) one court executive;
- (1)(B)(iv)(i) one juvenile court probation representative;
- (1)(B)(iv)(j) two court clerks from different levels of court and different judicial districts;

(1)(B)(iv)(k) one data processing manager; and

(1)(B)(iv)(l) one adult educator from higher education.

(1)(B)(iv)(m) The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.

(1)(B)(v) The **Court Facility Planning Committee** performs the duties described in rule 3-409 and shall consist of:

(1)(B)(v)(a) one judge from each level of trial court;

(1)(B)(v)(b) one appellate court judge;

(1)(B)(v)(c) the state court administrator;

(1)(B)(v)(d) a trial court executive;

(1)(B)(v)(e) two business people with experience in the construction or financing of facilities; and

(1)(B)(v)(f) the court security director.

(1)(B)(vi) The **Committee on Children and Family Law** performs the duties described in rule 4-908 and shall consist of:

(1)(B)(vi)(a) one Senator appointed by the President of the Senate;

(1)(B)(vi)(b) the Director of the Department of Human Services or designee;

(1)(B)(vi)(c) one attorney of the Executive Committee of the Family Law Section of the Utah State Bar;

(1)(B)(vi)(d) one attorney with experience in abuse, neglect and dependency cases;

(1)(B)(vi)(e) one attorney with experience representing parents in abuse, neglect and dependency cases;

(1)(B)(vi)(f) one representative of a child advocacy organization;

(1)(B)(vi)(g) the ADR Program Director or designee;

(1)(B)(vi)(h) one professional in the area of child development;

(1)(B)(vi)(i) one mental health professional;

(1)(B)(vi)(j) one representative of the community;

(1)(B)(vi)(k) the Director of the Office of Guardian ad Litem or designee;

(1)(B)(vi)(l) one court commissioner;

(1)(B)(vi)(m) two district court judges; and

(1)(B)(vi)(n) two juvenile court judges.

(1)(B)(vi)(o) One of the district court judges and one of the juvenile court judges shall serve as co-chairs to the committee. In its discretion the committee may appoint non-members to serve on its subcommittees.

(1)(B)(vii) The **Committee on Judicial Outreach** performs the duties described in rule 3-114 and shall consist of:

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

(1)(B)(viii) The **Committee on Resources for Self-represented Parties** performs the duties described in rule 3-115 and shall consist of:

- (1)(B)(viii)(a) two district court judges;
- (1)(B)(viii)(b) one juvenile court judge;
- (1)(B)(viii)(c) two justice court judges;
- (1)(B)(viii)(d) three clerks of court – one from an appellate court, one from an urban district and one from a rural district;
- (1)(B)(viii)(e) one representative from the Self-Help Center's social services organization providing direct services to underserved communities;
- (1)(B)(viii)(f) one representative from the Utah State Bar;
- (1)(B)(viii)(g) two representatives from legal service organizations that serve low-income clients;
- (1)(B)(viii)(h) one private attorney experienced in providing services to self-represented parties;

(1)(B)(viii)(i) two law school representatives;

(1)(B)(viii)(j) the state law librarian; and

(1)(B)(viii)(k) two community representatives.

(1)(B)(ix) The **Language Access Committee** performs the duties described in rule 3-306.02 and shall consist of:

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

(1)(B)(ix)(b) one juvenile court judge;

(1)(B)(ix)(c) one justice court judge;

(1)(B)(ix)(d) one trial court executive;

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

(1)(B)(ix)(f) one interpreter coordinator;

(1)(B)(ix)(g) one probation officer;

(1)(B)(ix)(h) one prosecuting attorney;

(1)(B)(ix)(i) one defense attorney;

(1)(B)(ix)(j) two certified interpreters;

(1)(B)(ix)(k) one approved interpreter;

(1)(B)(ix)(l) one expert in the field of linguistics; and

(1)(B)(ix)(m) one American Sign Language representative.

(1)(B)(x) The **Guardian ad Litem Oversight Committee** performs the duties described in rule 4-906 and shall consist of:

(1)(B)(x)(a) seven members with experience in the administration of law and public services selected from public, private and non-profit organizations.

(1)(B)(xi) The **Committee on Model Utah Civil Jury Instructions** performs the duties described in rule 3-418 and shall consist of:

(1)(B)(xi)(a) two district court judges;

(1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;

(1)(B)(xi)(c) four lawyers who primarily represent defendants; and

(1)(B)(xi)(d) one person skilled in linguistics or communication.

(1)(B)(xii) The **Committee on Model Utah Criminal Jury Instructions** performs the duties described in rule 3-418 and shall consist of:

(1)(B)(xii)(a) two district court judges;

(1)(B)(xii)(b) one justice court judge;

(1)(B)(xii)(c) four prosecutors;

(1)(B)(xii)(d) four defense counsel; and

~~(1)(B)(xii)(e) one professor of criminal law; and~~

~~(1)(B)(xii)(f)~~ (1)(B)(xii)(e) one person skilled in linguistics or
communication.

(1)(B)(xiii) The **Committee on Pretrial Release and Supervision** performs the
duties described in rule 3-116 and shall consist of:

(1)(B)(xiii)(a) two district court judges;

(1)(B)(xiii)(b) two justice court judges;

(1)(B)(xiii)(c) one prosecutor;

(1)(B)(xiii)(d) one defense attorney;

(1)(B)(xiii)(e) one county sheriff;

(1)(B)(xiii)(f) one representative of counties;

(1)(B)(xiii)(g) one representative of a county pretrial services agency;

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

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

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

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

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

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

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

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

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

(1)(B)(xiv) The **Committee on Court Forms** performs the duties described in rule
3-117 and shall consist of:

(1)(B)(xiv)(a) ~~one~~ two district court judges;

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

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

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

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

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

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

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

(1)(B)(xiv)(i) the ~~Court Services Director~~district court administrator or designee;

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

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

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

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

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

(1)(B)(xiv)(o) the LPP administrator.-

(1)(B)(xv) The **Committee on Fairness and Accountability** performs the duties described in rule 3-420. The committee shall include members who demonstrate an interest in, or who have experience with, issues of diversity, equity, and inclusion and shall consist of:

(1)(B)(xv)(a) one sitting judge;

(1)(B)(xv)(b) three current or former judicial officers;

(1)(B)(xv)(c) the General Counsel or designee; and

(1)(B)(xv)(d) the Director of the Office of Fairness and Accountability.

(1)(B)(xvi) The **Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)** performs the duties described in rule 3-421, and shall consist of:

(1)(B)(xvi)(a) **Judiciary** representatives:

(i) two or more district court judges;

(ii) two or more district court judicial support staff with experience in guardianship matters;

(iii) one representative from the Guardianship Reporting and Monitoring Program (GRAMP)

(iv) one representative from the Court Visitor Program; and

(v) the General Counsel or designee.

(1)(B)(xvi)(b) **Community stakeholder** representatives:

(i) one representative from Adult Protective Services;

(ii) one representative from Disability Law Center;

(iii) one representative from Adult and Aging Services;

(iv) one representative from Office of Public Guardian;

(v) one representative from the Utah State Bar;

(vi) one representative from Office of the Attorney General;

(vii) one representative from the Utah legislature;

(viii) one representative from the Utah Commission on Aging;

(ix) one representative from Utah Legal Services; and

(x) the Long-Term Care Ombudsman or designee.

~~(1)(B)(xiv)(n)~~(1)(B)(xvi)(c) **Individual community representatives:**

three or more community stakeholders representing:

(i) mental health community;

(ii) medical community;

(iii) private legal community that specializes in guardianship matters;

(iv) aging-adult services community;

(v) educator from a legal program or law school;

(vi) organization serving low-income, minorities, or marginalized communities;

(vii) citizens under or involved in guardianship; and

(viii) other organizations with a focus including, but not limited to guardianship, aging, legal services, or disability.

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

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

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

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

(3) **General provisions.**

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

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

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

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

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective reappointee's service on the committee, the attendance record of the prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

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

- 301 (3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each
302 committee. Whenever practical, appointments shall reflect geographical,
303 gender, cultural and ethnic diversity.
- 304 (3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members
305 shall serve staggered three year terms. Standing committee members shall not
306 serve more than two consecutive terms on a committee unless the Council
307 determines that exceptional circumstances exist which justify service of more than
308 two consecutive terms.
- 309 (3)(C) **Expenses.** Members of standing and ad hoc committees may receive
310 reimbursement for actual and necessary expenses incurred in the execution of their
311 duties as committee members.
- 312 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
313 committees.

314 Effective May/November 1, 20__~~21~~

Rule 3-421. Working Interdisciplinary Network of Guardianship Stakeholders (WINGS).

Intent:

To establish a committee of stakeholders from various disciplines to improve the state's guardianship and conservatorship services and processes.

Applicability:

This rule shall apply to all members of the WINGS committee.

Statement of the Rule:

(1) The WINGS committee shall provide leadership to identify the needs in guardianship and conservatorship matters and to secure and coordinate resources to meet those needs.

(2) The WINGS committee shall:

(2)(A) assess available services, forms, and rules for guardianship and conservatorship and gaps in those services, forms, and rules;

(2)(B) recommend measures to the Judicial Council, the State Bar and other appropriate institutions for improving guardianship and conservatorship processes;

(2)(C) support policy initiatives for the enhancement of guardianship, conservatorship, and related infrastructure;

(2)(D) identify and develop education and outreach opportunities regarding guardianships, conservatorships, and their alternatives;

(2)(E) provide training and support to those engaging the guardianship/conservatorship system;

(2)(F) promote high standards for guardians and conservators;

(2)(G) promote collaboration between WINGS members and other stakeholders;

(2)(H) regularly evaluate the needs and priorities of WINGS's efforts; and

(2)(I) strive to maintain interdisciplinary representation of members drawn from the organizations, entities, and individuals related to guardianship and conservatorship matters.

(3) **Chair.** The Chair of WINGS shall be a Utah District Court judge.

(4) **Executive Committee.** The WINGS Executive Committee shall consist of the Utah WINGS chair, the GRAMP Coordinator, the Court Visitor Program Coordinator, a staff attorney from the

Administrative Office of the Courts, and up to three members of Utah WINGS, as determined by the chair.

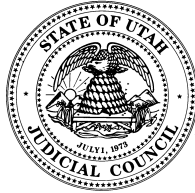
(5) **Community stakeholders.** One of the purposes of WINGS is to receive input from community stakeholder organizations. Community stakeholder organizational representatives (Rule 1-205(1)(B)(xv)(b)) will be designated by their organizations and not subject to the term limitations of Rule 1-205(3)(B).

Effective May/November 1, 2022

TAB 5

CJA 3-407. Accounting

Notes: See attached memo



Administrative Office of the Courts

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

January 31, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Policy and Planning Committee

FROM: Karl Sweeney and Sheri Knighton

RE: Amendment to CJA Rule 3-407 Accounting

We are seeking to amend the CJA Rule 3-407 Accounting to address the following items:

1. Incorporate the Budget and Fiscal Management Committee (BFMC) into Rule 3-407 as an approval body for accounting manual updates. The original version of Rule 3-407 predated the creation of the BFMC.
2. Elevate and document the role of the clerks of court as reviewers and approvers of new and amended accounting manual policies post review by the accounting manual review committee but before BFMC. The clerks of court are performing this role today but this policy change would incorporate this review as a part of policy. This change is endorsed by Shane Bahr and Neira Siaperas.
3. Eliminate the court services representative on the accounting manual review committee as the elevation of the review by all clerks of court will more comprehensively address any role played by the old court services area which has been integrated into IT.

If we could get this through Policy and Planning in time to get their final approval and through the public comment period by May 1, we can request expedited approval such that this policy could go into effect for the May 2022 accounting manual update.

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

Policy and Planning - Rule Amendment Request Form

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

Instructions

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

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

Date of Request *

MM DD YYYY

01 / 05 / 2022

Name of Requester *

Karl Sweeney

Requester Phone Number *

8635597386

Name of Requester's Supervisor *

Cathy Dupont

Location of the Rule *

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name *

3-407

Brief Description of Rule Proposal *

Incorporate the Budget and Fiscal Management Committee (BFMC) and the Clerks of Court in the accounting manual revisions process

Reason Amendment is Needed *

Present policy pre-dates the formation of the BFMC and is not optimal for approving accounting manual revisions.

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.

Judicial Council

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

Budget and Fiscal Management Committee, Clerks of Court, State Court Administrator

This form was created inside of Utah State Courts.

Google Forms

Rule 3-407. Accounting.**Intent:**

To establish uniform procedures for the processing, tracking, and reporting of accounts receivable and trust accounts.

Applicability:

This rule applies to the judiciary.

Statement of the Rule:**(1) Manual of procedures.**

(1)(A) **Manual of Procedures.** The administrative office shall develop a manual of procedures ("Accounting Manual") to govern accounts receivable, accounts payable, trust accounts, the audit thereof, and the audit of administrative procedures generally. The procedures shall be in conformity with generally accepted principles of budgeting and accounting and shall, at a minimum, conform to the requirements of this Code and state law. Unless otherwise directed by the Judicial Council, the Accounting Manual of ~~procedures~~ and amendments to it shall be approved by the majority vote of the Budget and Fiscal Management Committee following the procedures in (1)(D). ~~state court administrator, the court administrators for each court of record, and the finance manager.~~

(1)(B) **Accounting Manual Review Committee.** There is established an accounting manual review committee responsible for making and reviewing proposals for repealing accounting policies and procedures and proposals for promulgating new and amended accounting policies and procedures. The committee shall consist of the following minimum membership:

(1)(B)(i) the director of the AOC finance department, who shall serve as chair and shall vote only in the event of a tie;

(1)(B)(ii) four support services coordinators who will serve a three year term, and may repeat;

(1)(B)(iii) two accountants or clerks with accounting responsibilities from each of the trial courts of record who will serve a three year term, and may repeat;

(1)(B)(iv) a trial court executive who will serve a three year term;

(1)(B)(v) a clerk of court who will serve a three year term;

(1)(B)(vi) a clerk with accounting responsibilities from an appellate court who will serve a three year term, and may repeat;

~~(1)(B)(vii) one court services field specialist, who has an indefinite term;~~

(1)(B)(viii) the audit director or designee, who shall not vote; and

(1)(B)(viii) the director of the state division of finance or designee, who shall not vote.

(1)(C) **Member Appointments.** Unless designated by office, members of the committee shall be appointed by the state court administrator, or designee. The AOC department of finance shall provide necessary support to the committee.

(1)(D) **Trial Court Executives and Clerks of Court Review.** New and amended policies and procedures recommended by the majority vote of the accounting manual review committee shall be reviewed and approved by the trial court executives and clerks of court of all courts of record. The trial court executives and clerks of court may endorse or amend the draft policies and procedures or return the draft policies and procedures to the committee for further consideration.

Once approved by the trial court executives and court clerks, prior to being the new and amended policies and procedures will be submitted to the Budget and Fiscal Management Committee ("BFMC") for approval as noted in (1)(A). Judicial Council or to the vote of the administrators and the finance manager. The Court Executives may endorse or amend the draft policies and procedures or return the draft policies and procedures to the committee for further consideration.

(2) Revenue accounts.

(2)(A) **Deposits; transfers; withdrawals.** All courts shall deposit with a depository determined qualified by the administrative office or make deposits directly with the Utah State Treasurer or the treasurer of the appropriate local government entity. The Supreme Court, Court of Appeals, State Law Library, administrative office, district court primary locations and juvenile courts shall deposit daily, whenever practicable, but not less than once every three days. The deposit shall consist of all court collections of state money. District court contract sites and justice courts having funds due to the state or any political subdivision of the state shall, on or before the 10th day of each month, deposit all funds receipted by them in the preceding month in a qualified depository with the appropriate public treasurer. The courts shall make no withdrawals from depository accounts.

(2)(B) **Periodic revenue report.** Under the supervision of the court executive, the clerk of the court shall prepare and submit a revenue report that identifies the amount and source of the funds received during the reporting period and the state or local government entity entitled to the funds. Juvenile courts and primary locations of the district courts shall submit the report weekly to the administrative office. District court contract sites shall submit the report at least monthly, together with a check for the state portion of revenue, to the administrative office. Justice courts shall submit the report

monthly, together with a check for the state revenue collected, to the Utah State Treasurer.

(2)(C) **Monthly reconciliation of bank statement.** The administrative office shall reconcile the revenue account upon receipt of the weekly revenue report from the courts and the monthly bank statements.

(3) Trust accounts.

(3)(A) **Definition.** Trust accounts are accounts established by the courts for the benefit of third parties. Examples of funds which are held in trust accounts include restitution, attorney fees, and monetary bail amounts.

(3)(B) **Accounts required; duties of a fiduciary.** District court primary locations and juvenile courts shall maintain a trust account in which to deposit monies held in trust for the benefit of the trustor or some other beneficiary. Under supervision of the court executive, the clerk of the court shall be the custodian of the account and shall have the duties of a trustee as established by law. All other courts of record and not of record may maintain a trust account in accordance with the provisions of this rule.

(3)(C) **Monthly reconciliation of bank statement.** Each court shall reconcile its ledgers upon receipt of the monthly bank statement and submit the reconciliation to the administrative office.

(3)(D) **Accounting to trustor.** The courts shall establish a method of accounting that will trace the debits and credits attributable to each trustor.

(3)(E) **Monetary Bail forfeitures; other withdrawals.** Transfers from trust accounts to a revenue account may be made upon an order of forfeiture of monetary bail or other order of the court. Other withdrawals from trust accounts shall be made upon the order of the court after a finding of entitlement.

(3)(F) **Interest bearing.** All trust accounts shall be interest bearing. The disposition of interest shall be governed by Rule 4-301.

(4) Compliance. The administrative office and the courts shall comply with state law and the ~~Accounting Manual, of procedures in (1)(A), adopted by the administrative office.~~

Effective ~~May~~ November 1, 202~~2~~9

TAB 6

CJA 6-104. Water law judges

Notes: This is the new rule proposed by Judge Appleby creating water law judges. The dark red changes are the water law subcommittee's recommended amendments to the original rule draft.

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) **Council Designation.** 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) **Request for Assignment.** If a party to a case involving water law action filed under Utah Code Title 73, Chapter 3 or Chapter 4 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. Additionally, a party may request that a non-Chapter 3 or Chapter 4 case be assigned to a water judge. Non-Chapter 3 or 4 cases will be reviewed and assigned by the supervising water judge if the case is of sufficient legal complexity as related to water law to warrant assignment to a water judge.

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

(4) **Supervising Water Judge.** 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 Utah Judicial Institute 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; and-

(4)(G) coordinating with the water judge's presiding judge regarding any appropriate adjustments to the water judge's caseload.

(5) **Publishing Opinions.** 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) **Term.** 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) **Caseload.** 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

TAB 7

HR 15-4. Workplace Harassment Investigative Procedures

HR 16-3. Abusive Conduct Investigative Procedures

CJA 3-301.01. State Court Administrator—Complaints and Performance Review; Complaints Regarding Judicial Officers and State Court Employees.

CJA 3-104. Presiding judges

Notes: Following the committee’s December meeting, Bart Olsen met with each individual member to discuss the proposed amendments to HR policies and rule 3-104. After reviewing the committee’s edits, I significantly reduced the proposed amendments to rule 3-301.01 because it makes more sense to me to keep the language in that rule broad, with the detail in HR policies.

As a reminder, the proposed amendments are intended to streamline and memorialize procedures related to internal reports of alleged judicial misconduct involving court employees and/or other judicial officers, to provide presiding judges with the authority to place judges on temporary administrative leave, and (where appropriate and allowed under the law) to make the procedures more consistent with those related to similar reports of alleged employee misconduct.

The complete set of HR policies can be found at the link [here](#).

Section 15 – Workplace Harassment Prevention

HR15-3. Complaint Procedure.

Management shall permit employees who allege workplace harassment, retaliation, or both to file complaints and engage in a review process free from bias, collusion, intimidation or retaliation. Complainants shall be provided a reasonable amount of work time to prepare for and participate in internal complaint processes.

- 1) Any employee who believe they have been subject to, have witnessed, or are aware of discrimination, harassment, or retaliation, by any employee, commissioner, judge or justice, individual or entity is strongly encouraged to report the incident as described in this policy. Additionally, the employee should do the following:
 - a) Document the occurrence;
 - b) Continue to report to work; and
 - c) Identify a witness or witnesses, if applicable.
- 2) All employees can report discrimination, harassment, or retaliation verbally or in writing by any of the following methods:
 - a) By contacting directly any supervisor or member of management with whom the employee is comfortable reporting such matters.
 - b) By contacting any member of the [Human Resources Department](#).
 - c) By contacting directly, any member of AOC management, including any court-level administrator.
 - d) By contacting the State Court Administrator, Deputy State Court Administrator, or Assistant State Court Administrator.
 - e) By contacting any commissioner, judge or justice.
 - f) By contacting any member of the Management Committee, who shall immediately report the complaint to the Management Committee.
- 3) Commissioners, judges, justices, court executives and administrators, supervisors and managers must report any complaints or misconduct under this policy promptly to an appropriate authority, including a [Human Resources representative](#) for further action.
- 4) Upon receipt, Human Resources must promptly respond to any complaint of discrimination, harassment, or retaliation in compliance with investigative procedures and records requirements under [HR15-4](#) and [HR15-5](#).
 - a) The HR Director or HR Manager shall review the complaint to determine whether the allegation(s) potentially violate prohibited behavior under HR15-1 and/or HR15-2.
 - i) If potential violations of HR15-1 or HR15-2 are found, the HR Director or HR Manager shall authorize a formal investigation as described in HR15-4.

ii) If potential violations of HR15-1 or HR15-2 are not found, the HR Director or HR Manager shall notify the complainant and refer the matter to management for additional fact-finding administrative review as described in HR09-2(7)(a).

b) A complainant may submit a request to the Legal Department or the State Court Administrator to independently review the complaint if the complainant disagrees with the HR notice that potential violations of HR15-1 or HR15-2 were not found.

4)5) Information will be disclosed only on a need-to-know basis for the purpose of responding to the complaint. At the conclusion of the response to the complaint, all relevant parties will be notified.

HR15-4. Investigative Procedure.

Investigators

1) When allegations Investigations of workplace harassment, discrimination, or retaliation in violation of HR15-1 or HR15-2 are submitted as described in HR15-3, an investigationallegations shall be conducted as follows:by the HR Department and/or others designated by the HR Director based on HR standards and business practices.

a) Allegations against a non-judicial officer employee shall be investigated by the HR Department, Legal Department, or an external third party.The HR Director may authorize an investigation in consultation with the State Court Administrator, Deputy Court Administrator, and/or General Counsel.

i) Investigations shall be authorized by the State Court Administrator, Deputy Court Administrator, or General Counsel.

ii) Investigators shall normally be appointed by the Director or Manager of Human Resources, but may alternatively be appointed by the State Court Administrator, Deputy Court Administrator, and/or General Counsel as needed.

iii) External third-party investigators may include but are not limited to personnel from the Utah Department of Government Operations, Divisions of Risk Management and Human Resource Management.

i)iv) Costs for third party investigations shall be the responsibility of the judicial branch.

b) Allegations of workplace harassment against a judicial officer shallmay be investigated by the HR Department, Legal Department, or an external third party. when authorized by the Judicial Council.

i) Investigations shall be authorized by the Management Committee or the Judicial Council if timely authorization is feasible, but may alternatively be authorized by the Chair or Vice Chair of the Management Committee.

ii) Investigators shall normally be appointed by the Director or Manager of Human Resources, but may alternatively be appointed by the party

authorizing the investigation under HR15-4(1)(b)(i).
iii) External third-party investigators may include but are not limited to personnel identified in HR15-4(1)(a)(iii).

iv) Costs for third-party investigations shall be the responsibility of the judicial branch.

c) Investigators shall perform investigative procedures as neutral parties in a fact-finding capacity.

i) Basic investigative procedures often include but are not limited to the following:

(1) Management or presiding judicial officer action in due diligence to place the accused on reassignment, under special instructions, and/or on paid administrative leave pending an investigation;

(2) Intake interview with the complainant and identification of potential witnesses;

(3) Witness interviews;

(4) Interview with the accused;

(5) Examination of evidence;

(6) Written report of findings.

ii) Investigators shall report findings of fact and analyses of potential policy violations to appropriate parties as identified in HR15-4(2) at the conclusion of the investigation process.

~~ii)~~ iii) Investigators are authorized only to conduct procedures related to the investigation. Investigators are not authorized to determine specific employment action against employees or against judicial officers, but may offer recommendations if requested by the party or parties holding decision-making authority as described in HR15-4(2)(c).

Investigation Results

2) Results of investigations shall be handled as follows:

a) Non-judicial officer employee investigation results shall be provided in writing to management. If the investigators find the allegations to be sustained, management shall take appropriate administrative action.

b) Judicial officer investigation results shall be provided in writing to the Presiding Judge or the Chief Justice, State Court Administrator, Deputy Court Administrator, General Counsel, and the party authorizing the investigation under HR15-4(1)(b), unless otherwise directed by the party authorizing the investigation.

c) If the investigators find the allegations to be substantiated:

i) Management shall take appropriate administrative action for non-judicial officer employees, and

~~i)ii)~~ the Presiding Judge, Associate Presiding Judge, or Chief Justice shall take appropriate administrative action for judicial officers.

~~b)d)~~ If an investigation reveals evidence of criminal conduct in workplace

harassment allegations, the court executive or court level administrator may refer the matter to the appropriate law enforcement agency.

- e) At the conclusion of the investigation, the appropriate parties shall be notified including but not limited to the complainant and the accused.
- 3) Participants in any workplace harassment, discrimination or retaliation investigation shall treat all information pertaining to the case as confidential.

Interviews

- 4) Interview procedures shall be handled as follows:

- a) Interviewees are required to answer truthfully to all questions asked by the authorized investigators related to their job performance and functions or possible violations of policies, procedures, and/or regulations.
- b) Interviewees~~Employees~~ are allowed to have a representative present during an interview if desired. The interviewee ~~employee~~ is responsible to request representation. The representative may be another employee that has no involvement in the alleged conduct, a private attorney retained by the interviewee~~employee~~, or a representative from an employee association.
- i) If representation is requested, an interview may be paused until representation arrives or postponed up to 48 hours to allow the representative to be present.
- ii) The representative or interviewee~~employee~~ may record the interview after giving notice to the interviewer that the interview is being recorded.
- iii) The representative may assist the interviewee~~employee~~ by consulting with the interviewee~~employee~~ prior to the interview and may assist the employee during the interview by asking the investigator~~interviewer~~ to clarify a question. The representative may not tell an interviewee~~employee~~ what to say in response to a question nor unduly interrupt or otherwise interfere with the investigator's~~interviewer's~~ ability to conduct the interview.
- iv) If the investigator determines the representative is interfering with the integrity of the interview and/or the investigator's ability to conduct the interview, the representative may be removed from the interview.
- c) When necessary to protect the integrity of the investigation, an investigator may order an interviewee~~employee~~ not to disclose the contents or matters discussed in an investigative interview. Disregarding this order may be grounds for disciplinary action.
- d) When requested by the investigator, interviewees~~employees~~ must provide evidence (testimonial or non-testimonial) related to the incident being investigated. Refusal to do so may be grounds for disciplinary action.
- d)e) The subject of an interview may make a written request for records of the interview in accordance with HR15-5 and UCJA 4-202.02.

Section 16 – Abusive Conduct Prevention

HR16-2. Complaint Procedure.

Management shall permit an employee who alleges abusive conduct to file a complaint and engage in a review process free from bias, collusion, intimidation or retaliation.

- 1) An employee who believes they are being subjected to abusive conduct should do the following:
 - a) Document the occurrence;
 - b) Continue to report to work; and
 - c) Identify a witness or witnesses, if applicable.
- 2) A non-judicial officer employee shall file a written complaint of abusive conduct with the immediate supervisor, any person in a supervisory or management position in the judicial branch regardless of reporting relationship, any commissioner, judge, or justice, or anyone in the [Human Resources Department](#).
 - a) Complaints may be submitted by any employee, witness, volunteer or other individual.
 - b) Any supervisor who has knowledge of abusive conduct shall take immediate, appropriate action in consultation with the HR Department and document the action.
- 3) A judicial officer who believes they are being subjected to abusive conduct shall file a complaint directly to any member of the Judicial Council, who shall immediately report the complaint to the Management Committee.

1) Upon receipt, Human Resources must promptly respond to a complaint of abusive conduct in compliance with investigative procedures and records requirements under HR16-3 and HR16-4.

a) The HR Director or HR Manager shall review the complaint to determine whether the allegation(s) potentially violate prohibited behavior under HR16-1.

i) If potential violations of HR16-1 are found, the HR Director or HR Manager shall authorize a formal investigation as described in HR16-3.

ii) If potential violations of HR16-1 are not found, the HR Director or HR Manager shall notify the complainant and refer the matter to management for additional fact-finding administrative review as described in HR09-2(7)(a).

b) A complainant may submit a request to the Legal Department or the State Court Administrator to independently review the complaint if the complainant disagrees with the HR notice that potential violations of HR16-1 were not found.

45 ~~4)2)~~ Information will be disclosed only on a need-to-know basis for the purpose
46 of responding to the complaint. At the conclusion of the response to the
47 complaint, all relevant parties will be notified.

48 **HR16-3. Investigative Procedure.**

49
50 **Investigators**

- 51
52 1) When ~~warranted due to~~ allegations of abusive conduct in violation of HR16-1
53 are submitted as described in HR16-2, investigations shall be conducted as
54 follows: based on HR standards and business practices.
55 a) Allegations ~~against~~ of abusive conduct by non-judicial officer employees
56 shall be ~~investigated~~ conducted by ~~investigators in~~ the HR Department,
57 Legal Department, or an external third-party.
58 i) Investigations shall be authorized by the State Court Administrator,
59 Deputy Court Administrator, or General Counsel.
60 ii) Investigators shall normally be appointed by the Director or Manager
61 of Human Resources, but may alternatively be appointed by the
62 State Court Administrator, Deputy Court Administrator, and/or
63 General Counsel as needed.
64 iii) External third-party investigators may include but are not limited to
65 personnel from the Utah Department of Government Operations,
66 Divisions of Risk Management and Human Resource Management.
67 iv) Costs for third-party investigations shall be the responsibility of the
68 judicial branch.
69 b) Allegations ~~against~~ of abusive conduct by judicial officers shall be referred
70 immediately to the Chair and Vice Chair of the Judicial Council to be and
71 handled in accordance with policies of the Judicial Council.
72 c) An investigation may be conducted by the HR Department, Legal
73 Department, or an external third party if specifically requested by the Chair,
74 Vice Chair, or Management Committee of the Judicial Council.
75 i) Investigations shall be authorized by the Management Committee or
76 the Judicial Council if timely authorization is feasible, but may
77 alternatively be authorized by the Chair or Vice Chair of the
78 Management Committee.
79 ii) Investigators shall normally be appointed by the Director or Manager
80 of Human Resources, but may alternatively be appointed by the party
81 authorizing the investigation under HR16-3(1)(c)(i).
82 iii) External investigators may include but are not limited to personnel
83 identified in HR16-3(1)(a)(iii).
84 iv) Costs for third-party investigations shall be the responsibility of the
85 judicial branch.
86 d) Investigators shall perform all other investigative procedures
87 consistent with those found in HR15-4(1)(c).
88

Investigation Results

- 2) Results of abusive conduct investigations shall be handled in a manner consistent with HR15-4(2) governing results for workplace harassment investigations conducted by the HR Department shall be handled as follows:
- a) ~~A written report shall be produced and given to management or to the Judicial Council as appropriate, with an analysis of evidence gathered and a determination of whether allegations of abusive conduct are sustained or not sustained.~~
 - i) ~~If the allegations of abusive conduct are sustained for non-judicial officer employees, appropriate administrative action will be taken by management.~~
 - ii) ~~If the allegations of abusive conduct are sustained for judicial officers, the Judicial Council will proceed in accordance with its policies.~~
 - b) ~~If an investigation reveals evidence of criminal conduct in abusive conduct allegations, the court executive, court level administrator, or presiding officer of the Judicial Council may refer the matter to the appropriate law enforcement agency.~~
 - c) ~~At the conclusion of the investigation, the appropriate parties shall be notified of investigative findings and the procedure to request an administrative review of findings through the Grievance Review Panel under HR17.~~
- 3) ~~Participants in any abusive conduct investigation shall treat all information pertaining to the case as confidential.~~

Interviews

- 4)3) Interview procedures shall be handled in accordance with procedures identified in HR15-4(3) governing interviews for workplace harassment investigations as follows:
- a) ~~Interviewees are required to answer truthfully to all questions related to their job performance and functions or possible violations of policies, procedures, and/or regulations.~~
 - b) ~~Employees are allowed to have a representative present during an interview if desired. The employee is responsible to request representation. The representative may be another employee that has no involvement in the alleged conduct, a private attorney retained by the employee, or a representative from an employee association.~~
 - i) ~~If representation is requested, an interview may be paused until representation arrives or postponed up to 48 hours to allow the representative to be present.~~
 - ii) ~~The representative or employee may record the interview after giving notice to the interviewer that the interview is being recorded.~~
 - iii) ~~The representative may assist the employee by consulting with the employee prior to the interview and may assist the employee during~~

135 the interview by asking the interviewer to clarify a question. The
136 representative may not tell an employee what to say in response to
137 a question nor unduly interrupt or otherwise interfere with the
138 interviewer's ability to conduct the interview.

139 iv) If the investigator determines the representative is interfering with the
140 integrity of the interview and/or the investigator's ability to conduct
141 the interview, the representative may be removed from the interview.

142 c) When necessary to protect the integrity of the investigation, an investigator
143 may order an employee not to disclose the contents or matters discussed
144 in an investigative interview. Disregarding this order may be grounds for
145 disciplinary action.

146 d) When requested by the investigator, employees must provide evidence
147 (testimonial or non-testimonial) related to the incident being investigated.
148 Refusal to do so may be grounds for disciplinary action.

149 e) The subject of an interview may make a written request for records of the
150 interview in accordance with HR16-5 and UCJA 4-202.02.
151

Rule 3-104. Presiding judges.**Intent:**

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

Applicability:

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

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

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

(1)(B) Associate presiding judge

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

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

(2) Court organization**(2)(A) Court en banc**

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

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

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

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

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

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

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

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

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

(3) Administrative responsibilities and authority of presiding judge

(3)(A)(+) **Generally-**

(3)(A)(i) Responsibilities. The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) **Caseload.** Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) **Appeals.** Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) **Coordination of judicial schedules**

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) Authority to appoint senior judges

(3)(C)(i) The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

(3)(C)(ii) The presiding judge will notify the State Court Administrator or designee when a senior judge assignment has been made.

(3)(D) Court committees. The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(E) Outside agencies and the media

(3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(F) Docket management and case and judge assignments

(3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

(3)(G) Court executives

(3)(G)(i) The presiding judge shall review the proposed appointment of the court executive made by the State Court Administrator and must concur in the appointment before it will be effective. The presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring in the appointment of a court executive.

(3)(G)(ii) The presiding judge for the respective court level and the state level administrator shall jointly develop an annual performance plan for the court executive.

(3)(G)(iii) Annually, the state level administrator shall consult with the presiding judge in the preparation of an evaluation of the court executive's performance for the previous year, also taking into account input from all judges in the district.

(3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the court executive, including coordination of annual leave.

(3)(G)(v) Pursuant to Council policy and the direction of the state level administrator, the court executive has the responsibility for the day-to-day supervision of the non-judicial support staff and the non-judicial administration of the court. The presiding judge, in consultation with the judges of the jurisdiction, shall coordinate with the court executive on matters concerning the support staff and the general administration of the court including budget, facility planning, long-range planning, administrative projects, intergovernmental relations and other administrative responsibilities as determined by the presiding judge and the state level administrator.

(3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of courtrooms and facilities.

(3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in consultation with the presiding judge, shall:

(3)(I)(i) coordinate the compilation of management and statistical information necessary for the administration of the court;

(3)(I)(ii) establish policies and procedures and ensure that court personnel are advised and aware of these policies;

(3)(I)(iii) approve proposals for automation within the court in compliance with administrative rules.

(3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall oversee the development of the budget for the court. In contract sites, the court executive shall supervise the preparation and management of the county budget for the court on an annual basis and in accordance with the Utah Code.

(3)(K) **Judicial officers.** In the event that another judge or commissioner of the court fails to comply with a reasonable administrative directive of the presiding judge, interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Place the judge on a temporary, non-punitive period of paid administrative leave.

(3)(K)(vii) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(viii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(L) Cases under advisement

(3)(L)(i) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" is defined as follows:

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

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

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

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

The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.

(3)(L)(ii) Once a month each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Council.

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

Effective ~~June 28~~May/November 1, 2022

**Rule 3-301.01. State Court Administrator—Complaints and Performance Review;
Complaints Regarding Judicial Officers and State Court Employees.**

Intent:

The State Court Administrator serves at the pleasure of both the Supreme Court and the Judicial Council. The intent of this rule is to establish (1) the process for reviewing the performance of the State Court Administrator; (2) an avenue by which complaints regarding the State Court Administrator, judicial officers, and state court employees can be received, reviewed, and investigated; and (3) the confidentiality necessary to perform this work.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) Definitions.

(1)(A) “Performance Review Committee” means a committee consisting of one member of the Management Committee of the Judicial Council who is not a member of the Supreme Court, and one member of the Supreme Court. The Management Committee member shall be appointed by a majority vote of the Management Committee. The Supreme Court member shall be appointed by the Chief Justice.

(1)(B) “Management Committee” means the standing committee of the Judicial Council established in Rule 1-204.

(2) Complaints Regarding and Performance Review of State Court Administrator.

(2)(A) **Complaints—Receipt, Review, and Investigation.** The Supreme Court and the Management Committee are authorized to receive complaints regarding the conduct or performance of the State Court Administrator.

(2)(A)(i) The Supreme Court or the Management Committee shall promptly disclose all such complaints to each other and to the Performance Review Committee. The Performance Review Committee shall convene promptly to review the complaint and to determine what investigation is appropriate.

(2)(A)(ii) After the appropriate investigation is completed, the Performance Review Committee shall make recommendations to the Judicial Council and the Supreme Court. Recommendations may include: no further action, a performance or corrective action plan, discipline as a condition of continued employment, or termination.

(2)(B) **Annual Performance Review.** At least annually, the Performance Review Committee shall review the performance of the State Court Administrator in accordance with the standards set forth in the Human Resources Policies and Procedures Manual.

(2)(B)(i) The Performance Review Committee shall report the results of the State Court Administrator’s annual performance review to the Judicial Council and Supreme Court. After completion of the performance review, the Performance Review Committee may make recommendations to the Judicial Council and the Supreme Court. Recommendations may include:

no further action, a performance or corrective action plan, discipline as a condition of continued employment, or termination.

(2)(B)(ii) The Judicial Council and the Supreme Court shall meet in a joint executive session to approve, reject, or modify any recommended performance or corrective action plan.

(2)(C) Action to Discipline or Terminate the State Court Administrator.

(2)(C)(i) If the Performance Review Committee recommends that the State Court Administrator be disciplined as a condition of continued employment or be terminated, the Performance Review Committee shall promptly report its recommendation to the Judicial Council and the Supreme Court.

(2)(C)(ii) The Judicial Council and the Supreme Court shall meet in a joint executive session to consider the recommendation. After considering the recommendation, the Judicial Council and the Supreme Court may undertake such additional investigation as they jointly deem necessary. The Judicial Council and the Supreme Court shall work together in good faith to exercise jointly and by consensus their statutory rights regarding termination of the State Court Administrator.

(3) Complaints Regarding Judges and State Court Employees.

(3)(A) **Judicial Officers.** The Management Committee is authorized to receive, review, and investigate complaints regarding the conduct or performance of any judicial officer. ~~After completing the investigation it deems appropriate, t~~The Management Committee may refer the complaint and make recommendations to the appropriate presiding judge or to the Judicial Council. The Judicial Council shall decide whether to refer the complaint to the Judicial Conduct Commission. Nothing in this rule prevents any individual from filing a complaint directly with the Judicial Conduct Commission.

(3)(B) **Other Court Employees.** The Management Committee is authorized to receive complaints regarding the conduct or performance of any state court employee. For complaints involving any employee other than the State Court Administrator or Human Resources Director, the Management Committee shall refer the complaint to the Human Resources Department consistent with its Policies and Procedures Manual. Complaints involving the Human Resources Director shall be referred to the State Court Administrator for review and investigation.

(4) Consultation Regarding Personnel and Related Matters.

(4)(A) The Management Committee shall be available to consult with any presiding judge on personnel and related matters involving a judicial officer.

(4)(B) The Management Committee shall be available to consult with the State Court Administrator on personnel and related matters involving any state court employee.

(5) Confidentiality. The work performed by the Supreme Court, the Performance Review Committee or the Management Committee pursuant to this rule shall be kept confidential

103 and shall not be disclosed until (1) disclosure is required by this rule, or (2) disclosure is
104 required by applicable law.

105

|106 *Effective May*~~*November*~~ *1, 202*~~*24*~~

TAB 8

CJA 4-202.08. Fees for records, information, and services

CJA 4-401.01. Electronic media coverage of court proceedings

Notes: There is a disagreement among the bench statewide about whether certain individuals meet the definition of a “news reporter” when ruling on media requests under 4-401.01.

Because the definition of a “news organization” under 4-202.08 is so similar to the definition of a “news reporter” under 4-401.01, granting fee waivers for an individual claiming to be part of a “news organization” (when judges have ruled that same individual is not a “news reporter”) may appear as though the AOC is taking a position contrary to certain judicial decisions.

Rule 4-401.01 governs electronic media coverage requests. It defines “news reporters” as:

“(1)(D) “News reporter” as used in this rule means a publisher, editor, reporter or other similar person who gathers, records, photographs, reports, or publishes information for the primary purpose of disseminating news to the public, and any newspaper, magazine, or other periodical publication, press association or wire service, radio station, television station, satellite broadcast, cable system or other organization with whom that person is connected.”

Rule 4-202.08 establishes uniform fees for records access requests. Under (8)(B)(i), a “news organization” is defined as:

“...a news organization that gathers information for the primary purpose of disseminating news to the public and that requests a record to obtain information for a story or report for publication or broadcast to the general public”

Rule 4-202.08. Fees for records, information, and services.**Intent:**

To establish uniform fees for requests for records, information, and services.

Applicability:

This rule applies to all courts of record and not of record and to the Administrative Office of the Courts. This rule does not apply to the Self Help Center.

Statement of the Rule:

(1) **Fees payable.** Fees are payable to the court or office that provides the record, information, or service at the time the record, information, or service is provided. The initial and monthly subscription fee for public online services is due in advance. The connect-time fee is due upon receipt of an invoice. If a public online services account is more than 60 days overdue, the subscription may be terminated. If a subscription is terminated for nonpayment, the subscription will be reinstated only upon payment of past due amounts and a reconnect fee equal to the subscription fee.

(2) **Use of fees.** Fees received are credited to the court or office providing the record, information, or service in the account from which expenditures were made. Fees for public online services are credited to the Administrative Office of the Courts to improve data quality control, information services, and information technology.

(3) **Copies.** Copies are made of court records only. The term "copies" includes the original production. Fees for copies are based on the number of record sources to be copied or the means by which copies are delivered and are as follows:

(3)(A) paper except as provided in (H): \$.25 per sheet;

(3)(B) microfiche: \$1.00 per card;

(3)(C) audio tape: \$10.00 per tape;

(3)(D) video tape: \$15.00 per tape;

(3)(E) electronic storage medium other than of court hearings: \$15.00 per unit;

(3)(F) electronic copy of court reporter stenographic text: \$25.00 for each one-half day of testimony or part thereof;

(3)(G) electronic copy of audio record or video record of court proceeding: \$15.00 for each one-half day of testimony or part thereof; and

(3)(H) pre-printed forms and associated information: an amount for each packet established by the state court administrator.

(4) Delivery method

(4)(A) **Mailing.** The fee for mailing is the actual cost. The fee for mailing shall include necessary transmittal between courts or offices for which a public or private carrier is used.

(4)(B) **Fax or e-mail.** The fee to fax or e-mail a document is \$5.00 for 10 pages or less. The fee for additional pages is \$.50 per page. Records available on Xchange will not be faxed or e-mailed.

(5) **Personnel time.** Personnel time to copy the record of a court proceeding is included in the copy fee. For other matters, there is no fee for the first 15 minutes of personnel time. The fee for time beyond the first 15 minutes is charged in 15 minute increments for any part thereof. The fee for personnel time is charged at the following rates for the least expensive group capable of providing the record, information, or service:

(5)(A) clerical assistant: \$15.00 per hour;

(5)(B) technician: \$22.00 per hour;

(5)(C) senior clerical: \$21.00 per hour

(5)(D) programmer/analyst: \$32.00 per hour;

(5)(E) manager: \$37.00 per hour; and

(5)(F) consultant: actual cost as billed by the consultant.

(6) Public online services

(6)(A) The fee to subscribe to Xchange shall be as follows:

(6)(A)(i) a set-up fee of \$25.00;

(6)(A)(ii) a subscription fee of \$40.00 per month for any portion of a calendar month; and

(6)(A)(iii) \$.15 for each search over 500 during a billing cycle. A search is counted each time the search button is clicked.

(6)(B) When non-subscription access becomes available, the fee to access public online services without subscribing shall be a transaction fee of \$5.00, which will allow up to 10 searches during a session.

(6)(C) The fee to access a document shall be \$.50 per document.

(7) **No interference.** Records, information, and services shall be provided at a time and in a manner that does not interfere with the regular business of the courts. The Administrative Office of the Courts may disconnect a user of public online services whose use interferes with computer performance or access by other users.

(8) Waiver of fees

(8)(A) Fees established by this rule other than fees for public online services shall be waived for:

(8)(A)(i) any government entity of Utah or its political subdivisions if the fee is minimal;

(8)(A)(ii) any person who is the subject of the record and who is impecunious;
and

(8)(A)(iii) a student engaged in research for an academic purpose.

(8)(B) Fees for public online services shall be waived for:

(8)(B)(i) up to 10,000 searches per year for a news organization that gathers information for the primary purpose of disseminating news to the public and that requests a record to obtain information for a story or report for publication or broadcast to the general public;

(8)(B)(ii) any government entity of Utah or its political subdivisions;

(8)(B)(iii) the Utah State Bar;

(8)(B)(iv) public defenders for searches performed in connection with their duties as public defenders; and

(8)(B)(v) any person or organization who the XChange administrator determines offers significant legal services to a substantial portion of the public at no charge.

Effective November 1, 2020

Rule 4-401.01 Electronic media coverage of court proceedings.**Intent:**

To establish uniform standards and procedures for electronic media coverage of court proceedings.

To permit electronic media coverage of proceedings while protecting the right of parties to a fair trial, personal privacy and safety, the decorum and dignity of proceedings, and the fair administration of justice.

Applicability:

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

This rule governs electronic media coverage of proceedings that are open to the public, including proceedings conducted by remote transmission.

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

(1)(A) “Judge” as used in this rule means the judge, justice, or court commissioner who is presiding over the proceeding.

(1)(B) “Proceeding” as used in this rule means any trial, hearing, or other matter that is open to the public.

(1)(C) “Electronic media coverage” as used in this rule means recording or transmitting images or sound of a proceeding.

(1)(D) “News reporter” as used in this rule means a publisher, editor, reporter or other similar person who gathers, records, photographs, reports, or publishes information for the primary purpose of disseminating news to the public, and any newspaper, magazine, or other periodical publication, press association or wire service, radio station, television station, satellite broadcast, cable system or other organization with whom that person is connected.

(2) Presumption of electronic media coverage; restrictions on coverage

(2)(A) There is a presumption that electronic media coverage by a news reporter shall be permitted in public proceedings where the predominant purpose of the electronic media coverage request is journalism or dissemination of news to the public. The judge may prohibit or restrict electronic media coverage in those cases only if the judge finds that the reasons for doing so are sufficiently compelling to outweigh the presumption.

(2)(B) When determining whether the presumption of electronic media coverage has been overcome and whether such coverage should be prohibited or restricted beyond the limitations in this rule, a judge shall consider some or all of the following factors:

(2)(B)(i) whether there is a reasonable likelihood that electronic media coverage will prejudice the right of the parties to a fair proceeding;

(2)(B)(ii) whether there is a reasonable likelihood that electronic media coverage will jeopardize the safety or well-being of any individual;

(2)(B)(iii) whether there is a reasonable likelihood that electronic media coverage will jeopardize the interests or well-being of a minor;

(2)(B)(iv) whether there is a reasonable likelihood that electronic media coverage will constitute an unwarranted invasion of personal privacy of any person;

(2)(B)(v) whether electronic media coverage will create adverse effects greater than those caused by media coverage without recording or transmitting images or sound;

(2)(B)(vi) the adequacy of the court's physical facilities for electronic media coverage;

(2)(B)(vii) the public interest in and newsworthiness of the proceeding;

(2)(B)(viii) potentially beneficial effects of allowing public observation of the proceeding through electronic media coverage; and

(2)(B)(ix) any other factor affecting the fair administration of justice.

(2)(C) If the judge prohibits or restricts electronic media coverage, the judge shall make particularized findings orally or in writing on the record. Any written order denying a request for electronic media coverage shall be made part of the case record.

(2)(D) Any reasons found sufficient to prohibit or restrict electronic media coverage shall relate to the specific circumstances of the proceeding rather than merely reflect generalized views or preferences.

(3) Duty of news reporters to obtain permission; termination or suspension of coverage

(3)(A) Unless otherwise ordered by the court, news reporters shall file a written request for permission to provide electronic media coverage of a proceeding at least one business day before the proceeding. The request shall be filed on a form provided by the Administrative Office of the Courts. Upon a showing of good cause, the judge may grant a request on shorter notice.

(3)(B) A judge may terminate or suspend electronic media coverage at any time without prior notice if the judge finds that continued electronic media coverage is no longer appropriate based upon consideration of one or more of the factors in Paragraph (2)(B). If permission to provide electronic media coverage is terminated or suspended, the judge shall make the findings required in Paragraphs (2)(C) and (2)(D).

(4) Conduct in the courtroom; pool coverage

(4)(A) If a proceeding is conducted in the courtroom, electronic media coverage is limited to one audio recorder and operator, one video camera and operator, and one still camera and operator, unless otherwise approved by the judge or designee. All requests to provide electronic media coverage shall be made to the court's public information office. The news reporter whose request is granted by the court will provide pool coverage.

(4)(B) It is the responsibility of news reporters to determine who will participate at any given time, how they will pool their coverage, and how they will share audio, video or photographic files produced by pool coverage. The pooling arrangement shall be reached before the proceedings without imposing on the judge or court staff. Neither the judge nor court staff shall be called upon to resolve disputes concerning pool arrangements.

(4)(C) The approved news reporter shall be capable of sharing audio, video or photographic files with other news reporters in a generally accepted format. News reporters providing pool coverage shall promptly share their files with other news reporters. News reporters must be willing and able to share their files to be approved to provide coverage.

(4)(D) News reporters shall designate a representative with whom the court may consult regarding pool coverage, and shall provide the court with the name and contact information for such representative.

(4)(E) Tripods may be used, but not flash or strobe lights. Normally available courtroom equipment shall be used unless the judge or a designee approves modifications, which shall be installed and maintained without court expense. Any modifications, including microphones and related wiring, shall be as unobtrusive as possible, shall be installed before the proceeding or during recess, and shall not interfere with the movement of those in the courtroom.

(4)(F) The judge may position news reporters, equipment, and operators in the courtroom. Proceedings shall not be disrupted. Equipment operators and news reporters in the courtroom shall:

(4)(F)(i) not use equipment that produces loud or distracting sounds;

(4)(F)(ii) not place equipment in nor remove equipment from the courtroom nor change location while court is in session;

(4)(F)(iii) conceal any identifying business names, marks, call letters, logos or symbols;

(4)(F)(iv) not make comments in the courtroom during the court proceedings;

(4)(F)(v) not comment to or within the hearing of the jury or any member thereof at any time before the jury is dismissed;

(4)(F)(vi) present a neat appearance and conduct themselves in a manner consistent with the dignity of the proceedings;

(4)(F)(vii) not conduct interviews in the courtroom except as permitted by the judge; and

(4)(F)(viii) comply with the orders and directives of the court.

(5) Violations. In addition to contempt and any other sanctions allowed by law, a judge may remove from or terminate electronic access to the proceeding anyone violating this rule or the court's orders and directives and terminate or suspend electronic media coverage.

(6) Limitations on electronic media coverage. Notwithstanding an authorization to conduct electronic media coverage of a proceeding, and unless expressly authorized by the judge, there shall be no:

(6)(A) electronic media coverage of a juror or prospective juror until the person is dismissed;

(6)(B) electronic media coverage of the face of a person known to be a minor;

(6)(C) electronic media coverage of an exhibit or a document that is not part of the official public record;

(6)(D) electronic media coverage of proceedings in chambers;

(6)(E) audio recording or transmission of the content of bench conferences; or

(6)(F) audio recording or transmission of the content of confidential communications between counsel and client, between clients, or between counsel.

(7) Except as provided by this rule, recording or transmitting images or sound of a proceeding without the express permission of the judge is prohibited. This rule shall not diminish the

172 authority of the judge conferred by statute, rule, or common law to control the proceedings or
173 areas immediately adjacent to the courtroom.

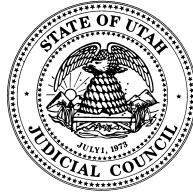
174

175 *Effective November 1, 2020*

TAB 9

CJA 4-202.02. Records classification

Notes: See attached memo



Administrative Office of the Courts

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

January 31, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Policy and Planning
FROM: Paul Barron
RE: Adding Date of Birth to index in 4-202.02(2)(L)

We recently received a request from John Wright, CEO of Graphicsoft.com, who would like to become a bulk subscription customer to our publicly available data which we provide to about a dozen companies on a monthly basis. In his correspondence, he says:

We are building an online app to "quickly" find anyone in Utah with a State Felony.

In further correspondence, he described how he would like to be able to search by both defendant name and birth date.

We are trying to identify the people on the list and don't want someone to be mistaken for the wrong person. The birthday gives us more accurate data and allows us to match better.

We indicated that we could not supply a party's date of birth (DOB) in our bulk unloaded data because it is not an approved field in the index created in [CJA 4-202.02\(2\)\(L\)](#).

Mr. Wright has asked that the Management Committee consider amending subparagraph (2)(L) to add a party's DOB as one of the allowable indexed data fields. Please note that a party's DOB is a public record for individual cases under subparagraph (2)(N).

If this rule amendment is adopted, a party's DOB would be available in our monthly downloads to all of our bulk data customers, of which there are about a dozen. Some of those customers are almost certainly using 3rd party data to match to our records. Providing the DOB would give them one additional piece of data for assuring an accurate match.

The downside of this potential change would chiefly be a public perception of not keeping sensitive data private and making it easier for nefarious actors to perpetrate identity theft.

The committee could consider limited options, such as allowing a party's DOB in criminal cases only, and/or making only the year of birth an indexable field per the rule.

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

2 **Intent:**

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

4 **Applicability:**

5 This rule applies to the judicial branch.

6 **Statement of the Rule:**

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

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

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

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

Commented [KW1]: Alternative: "party's year of birth"
(applicable to criminal and civil cases)

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

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

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

113
114 **(4) Private Court Records.** The following court records are private:

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

118 (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check
119 System database;
120 (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the
121 records are sealed;
122 (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until
123 the records are sealed; and
124 (4)(A)(v) cases initiated in the district court by filing an abstract of a
125 juvenile court restitution judgment.
126 (4)(B) records in the following actions, except that the case history, judgments,
127 orders, decrees, letters of appointment, and the record of public hearings
128 are public records:
129 (4)(B)(i) Title 30, Husband and Wife, including qualified domestic
130 relations orders, except that an action for consortium due
131 to personal injury under Section 30-2-11 is public;
132 (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
133 (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability
134 and their Property;
135 (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
136 (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
137 (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody
138 Jurisdiction and Enforcement Act;
139 (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support
140 Act;
141 (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
142 (4)(B)(ix) an action to modify or enforce a judgment in any of the
143 actions in this subparagraph (B);
144 (4)(C) records related to determinations of indigency;
145 (4)(D) an affidavit supporting a motion to waive fees;
146 (4)(E) aggregate records other than public aggregate records under subsection
147 (2);
148 (4)(F) alternative dispute resolution records;
149 (4)(G) applications for accommodation under the Americans with Disabilities Act;
150 (4)(H) jail booking sheets;
151 (4)(I) citation, but an abstract of a citation that redacts all non-public information
152 is public;
153 (4)(J) judgment information statement;
154 (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-
155 1009;
156 (4)(L) the following personal identifying information about a party: driver's license
157 number, social security number, account description and number,
158 password, identification number, maiden name and mother's maiden name,
159 and similar personal identifying information;
160 (4)(M) the following personal identifying information about a person other than a
161 party or a victim or witness of a crime: residential address, personal email
162 address, personal telephone number; date of birth, driver's license number,

- 163 social security number, account description and number, password,
164 identification number, maiden name, mother's maiden name, and similar
165 personal identifying information;
166 (4)(N) medical, psychiatric, or psychological records;
167 (4)(O) name of a minor, except that the name of a minor party is public in the
168 following district and justice court proceedings:
169 (4)(O)(i) name change of a minor;
170 (4)(O)(ii) guardianship or conservatorship for a minor;
171 (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;
172 (4)(O)(iv) protective orders and stalking injunctions; and
173 (4)(O)(v) custody orders and decrees;
174 (4)(P) nonresident violator notice of noncompliance;
175 (4)(Q) personnel file of a current or former court personnel or applicant for
176 employment;
177 (4)(R) photograph, film, or video of a crime victim;
178 (4)(S) record of a court hearing closed to the public or of a child's testimony taken
179 under URCrP 15.5:
180 (4)(S)(i) permanently if the hearing is not traditionally open to the
181 public and public access does not play a significant positive
182 role in the process; or
183 (4)(S)(ii) if the hearing is traditionally open to the public, until the
184 judge determines it is possible to release the record without
185 prejudice to the interests that justified the closure;
186 (4)(T) record submitted by a senior judge or court commissioner regarding
187 performance evaluation and certification;
188 (4)(U) record submitted for in camera review until its public availability is
189 determined;
190 (4)(V) reports of investigations by Child Protective Services;
191 (4)(W) statement in support of petition to determine competency;
192 (4)(X) victim impact statements;
193 (4)(Y) name of a prospective juror summoned to attend court, unless classified by
194 the judge as safeguarded to protect the personal safety of the prospective
195 juror or the prospective juror's family;
196 (4)(Z) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate
197 Procedure, except briefs filed pursuant to court order;
198 (4)(AA) records in a proceeding under Rule 60 of the Utah Rules of Appellate
199 Procedure; and
200 (4)(BB) other records as ordered by the court under Rule 4-202.04.
201
202 **(5) Protected Court Records.** The following court records are protected:
203 (5)(A) attorney's work product, including the mental impressions or legal theories
204 of an attorney or other representative of the courts concerning litigation,
205 privileged communication between the courts and an attorney representing,
206 retained, or employed by the courts, and records prepared solely in

- 207 anticipation of litigation or a judicial, quasi-judicial, or administrative
208 proceeding;
- 209 (5)(B) records that are subject to the attorney client privilege;
- 210 (5)(C) bids or proposals until the deadline for submitting them has closed;
- 211 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed
212 legislation before issuance of the final recommendations in these areas;
- 213 (5)(E) budget recommendations, legislative proposals, and policy statements, that
214 if disclosed would reveal the court's contemplated policies or contemplated
215 courses of action;
- 216 (5)(F) court security plans;
- 217 (5)(G) investigation and analysis of loss covered by the risk management fund;
- 218 (5)(H) memorandum prepared by staff for a member of any body charged by law
219 with performing a judicial function and used in the decision-making process;
- 220 (5)(I) confidential business records under Utah Code Section 63G-2-309;
- 221 (5)(J) record created or maintained for civil, criminal, or administrative
222 enforcement purposes, audit or discipline purposes, or licensing,
223 certification or registration purposes, if the record reasonably could be
224 expected to:
- 225 (5)(J)(i) interfere with an investigation;
- 226 (5)(J)(ii) interfere with a fair hearing or trial;
- 227 (5)(J)(iii) disclose the identity of a confidential source; or
- 228 (5)(J)(iv) concern the security of a court facility;
- 229 (5)(K) record identifying property under consideration for sale or acquisition by the
230 court or its appraised or estimated value unless the information has been
231 disclosed to someone not under a duty of confidentiality to the courts;
- 232 (5)(L) record that would reveal the contents of settlement negotiations other than
233 the final settlement agreement;
- 234 (5)(M) record the disclosure of which would impair governmental procurement or
235 give an unfair advantage to any person;
- 236 (5)(N) record the disclosure of which would interfere with supervision of an
237 offender's incarceration, probation, or parole;
- 238 (5)(O) record the disclosure of which would jeopardize life, safety, or property;
- 239 (5)(P) strategy about collective bargaining or pending litigation;
- 240 (5)(Q) test questions and answers;
- 241 (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- 242 (5)(S) record of a Children's Justice Center investigative interview before the
243 conclusion of any legal proceedings;
- 244 (5)(T) presentence investigation report;
- 245 (5)(U) except for those filed with the court, records maintained and prepared by
246 juvenile probation; and
- 247 (5)(V) other records as ordered by the court under Rule 4-202.04.
- 248
- 249 **(6) Juvenile Court Social Records.** The following are juvenile court social records:
- 250 (6)(A) correspondence relating to juvenile social records;

- 251 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations,
- 252 substance abuse evaluations, domestic violence evaluations;
- 253 (6)(C) medical, psychological, psychiatric evaluations;
- 254 (6)(D) pre-disposition and social summary reports;
- 255 (6)(E) probation agency and institutional reports or evaluations;
- 256 (6)(F) referral reports;
- 257 (6)(G) report of preliminary inquiries; and
- 258 (6)(H) treatment or service plans.

259
260 **(7) Juvenile Court Legal Records.** The following are juvenile court legal records:

- 261 (7)(A) accounting records;
- 262 (7)(B) discovery filed with the court;
- 263 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes,
- 264 findings, orders, decrees;
- 265 (7)(D) name of a party or minor;
- 266 (7)(E) record of a court hearing;
- 267 (7)(F) referral and offense histories
- 268 (7)(G) and any other juvenile court record regarding a minor that is not designated
- 269 as a social record.

270
271 **(8) Safeguarded Court Records.** The following court records are safeguarded:

- 272 (8)(A) upon request, location information, contact information, and identity
- 273 information other than name of a petitioner and other persons to be
- 274 protected in an action filed under Title 78B, Chapter 7, Protective Orders;
- 275 (8)(B) upon request, location information, contact information and identity
- 276 information other than name of a party or the party's child after showing by
- 277 affidavit that the health, safety, or liberty of the party or child would be
- 278 jeopardized by disclosure in a proceeding under Title 78B, Chapter 13,
- 279 Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B,
- 280 Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15,
- 281 Utah Uniform Parentage Act;
- 282 (8)(C) location information, contact information, and identity information of
- 283 prospective jurors on the master jury list or the qualified jury list;
- 284 (8)(D) location information, contact information, and identity information other than
- 285 name of a prospective juror summoned to attend court;
- 286 (8)(E) the following information about a victim or witness of a crime:
- 287 (8)(E)(i) business and personal address, email address, telephone
- 288 number, and similar information from which the person can
- 289 be located or contacted;
- 290 (8)(E)(ii) date of birth, driver's license number, social security
- 291 number, account description and number, password,
- 292 identification number, maiden name, mother's maiden
- 293 name, and similar personal identifying information.

294
295 *Effective May 1, 2022*