

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

Webex video conferencing  
February 4, 2022: 12 pm -2 pm

**MEMBERS:**

**PRESENT**

**EXCUSED**

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

**GUESTS:**

Judge Appleby  
Judge Keith Kelly  
Shonna Thomas  
Meredith Mennebach  
Karl Sweeney  
Bart Olsen  
Commissioner Minas  
Jim Peters  
Paul Barron  
Keri Sargent  
Lauren Andersen  
Nick Stiles  
Chris Palmer

**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 December 3, 2021 meeting. With no changes, Judge Connors moved to approve the minutes as presented. Judge Heward seconded the motion. The motion passed unanimously.

**(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.**

Following a 45-day comment period that ended on February 3, 2022, no comments were received for Code of Judicial Administration rules 1-205, 2-103, and 3-420.

***With no further discussion, Judge Connors moved to send rules CJA 1-205, 2-103, and 3-420 to the Judicial Council with a recommendation that the rules be approved as final with an effective date of May 1, 2022. Judge Chiara seconded the motion. The motion passed unanimously.***

Following a 45-day comment period that ended on February 3, 2022, one comment was received for Code of Judicial Administration rule 4-903. The proposed amendment limits the circumstances under which a custody evaluation can be ordered and outlines the training requirements of those who conduct custody evaluations.

The committee expressed concern regarding uncertainty surrounding who will be responsible for payment of the evaluation and recommended that the rule be amended to provide clarity on the responsible party. The committee also recommended a 15-day written notice of request for a written custody evaluation, rather than 45-days as currently written in the rule.

***Following further discussion, Judge Connors moved to table rule CJA 4-903 to another meeting pending discussion with the Family Law Subcommittee on recommendations made by the committee. Judge Chiara seconded the motion. The motion passed unanimously. Commissioner Minas will review the committee's concerns with the Family Law Subcommittee.***

### **(3) CJA 4-302. Recommended Uniform Fine Schedule.**

In May 2020, the Management Committee approved the committee's name change in rule CJA 4-302 from "Recommended Uniform Fine Schedule Committee" to "Recommended Uniform Fine Committee." The proposed amendments reflect the approved name change and additional formatting by Ms. Williams in an attempt to clean up the rule.

While no changes were proposed to the language in (2)(D), the committee discussed concerns regarding a court's ability to deviate from the schedule. The committee determined that any changes to the rule, other than amending the name of the committee, may imply that Policy and Planning is expressly endorsing the existing language. The committee recommended that Ms. Williams discuss the issue with the Boards of District and Justice Court Judges, followed by the Judicial Council prior to further action by the committee.

***Following additional discussion, Judge Connors moved to send the proposed name change (line 20) in CJA 4-302 to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Connors also moved to table the remaining portions of rule CJA 4-302 to another meeting pending discussion with the boards of judges and the Judicial Council. Judge Chin seconded the motion. The motion passed unanimously.***

### **(4) CJA 1-205. Standing and ad hoc committees. CJA 4-321. WINGS Committee. (NEW)**

The WINGS Committee is looking to become a Judicial Council Standing Committee under the supervision of the Judicial Council as outlined in rule CJA 1-205. Status as a standing committee will ensure a formal succession plan for the leadership of WINGS, along with statewide participation from the judiciary and court staff. New rule CJA 4-321 outlines the standing committee's responsibilities.

***Following additional discussion and with no changes to the proposed amendments, Judge Connors moved to approve rule CJA 1-205 and new rule CJA 4-321 with a recommendation to the Judicial Council that the rules be published for a 45-day public comment period. Judge Chiara seconded the motion. The motion passed unanimously.***

### **(5) CJA 3-407. Accounting.**

Proposed amendments to rule CJA 3-407 incorporate the Budget and Fiscal Management Committee and the Clerks of Court in the accounting manual revision process. The present policy pre-dates the formation of the BFMC and is not optimal for approving accounting manual revisions.

***Following discussion and minor language changes, Judge Connors moved to approve rule CJA 3-407 with a recommendation to the Judicial Council that it be approved as final on an expedited basis, followed by a 45-day public comment period. Judge Heward seconded the motion. The motion passed unanimously.***

**(6) CJA 6-104. Water law judges.**

New rule CJA 6-104 establishes district court water judges. Policy and Planning's water law subcommittee proposes the current revisions.

*Following discussion and minor language changes, Judge Connors moved to approve new rule CJA 6-104 with a recommendation to the Judicial Council that it be published for a 45-day public comment period. Judge Chiara 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**
- **CJA 3-104. Presiding Judges**

Mr. Olsen had an opportunity to meet with the committee members on an individual basis to review amendments to the HR rules. Mr. Olsen amended the rules to address many of the questions raised during those meetings. The proposed amendments are intended to streamline and memorialize procedures related to internal reports of alleged misconduct involving court employees and/or judicial officers. The amendments would provide presiding judges with the authority to place judges on temporary administrative leave. The amendments would also make procedures more consistent with those related to similar reports of alleged employee misconduct.

Due to the lack of time remaining in the meeting and the attention needed on this item, the committee tabled the discussion until the next meeting. The proposed amendments will be placed second on the agenda following any discussion on rules back from public comment and will be allotted at least 45 minutes for review.

**(8) CJA 4-202.08. Fees for records, information, and services.**

**CJA 4-401.01. Electronic media coverage of court proceedings.**

The definition of a "news organization" in rule CJA 4-202.08 is similar to that of the definition of "news reporter" in CJA 4-401.01. Following discussion, the committee determined that any decision by the State Court Administrator granting or denying fee waiver requests based on the definition in 4-202.08 would have no bearing on judicial decisions made under 4-401.01. No rule amendments were proposed at this time.

No motion was taken on this matter. Ms. Williams will discuss the committee's comments with the state court administrator.

**(9) CJA 4-202.02. Records classification.**

Mr. Barron presented a request from a customer interested in bulk court data. Under 4-202.02, the only data the court may release in bulk are the fields listed in subparagraph (2)(L). Party birth dates are not included in the approved index. The requester intends to seek an exception to or an amendment of (2)(L) from the Management Committee at their next meeting, which would allow the requester to obtain reoccurring bulk court data that includes a party's date of birth. A party's date of birth is considered a public record under (2)(N) and may be released when providing individual records, but cannot be released in bulk. The Management Committee will likely seek Policy and Planning's recommendation as to whether parties' dates of birth should be released in bulk and whether the index in (2)(L) should be amended. If the rule is amended, a party's date of birth would be available on the court's monthly download to all bulk data customers. Some of the bulk data customers are likely to be using third party data to match to the court's records. Including the date of birth would provide an additional piece of information with the intent of achieving a more accurate data match. However, there is a concern that providing a date of birth may skew the public's perception of the court's ability to protect sensitive, private information and

may subject parties to a higher risk of identity theft. If approved, the court could limit the availability of dates of birth to criminal cases and/or to the birth month and year only.

The committee agreed that inclusion of the date of birth on the court's bulk data download is not appropriate and would be a breach of public confidence in the court's data security and protection of the public's information. The committee does not recommend permitting such request for this customer. No motion was taken on this matter.

**Old Business/New Business:** None

**Adjourn:** With no further items for discussion, Judge Connors moved to adjourn the meeting. Judge Chin seconded the motion. The next meeting will be held on March 4, 2022 at 12 PM via Webex video conferencing.