

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING AGENDA**
March 4, 2022 – 12:00 p.m. to 2:00 p.m.
Webex

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Connors
12:05	<u>Internal procedures re judicial misconduct complaints:</u> <ul style="list-style-type: none"> • HR 15-3 and 15-4. Workplace Harassment Investigative Procedures • HR 16-2 and 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 2	Bart Olsen Keisa Williams
1:00	HR 01. Definitions HR 8-14. Dual State Employment HR 9-11. Conflict of Interest HR 9-12. Political Activity	Action	Tab 3	Keisa Williams
1:20	HR 8-22. Out-of-State Work Policy	Action	Tab 4	Bart Olsen
1:35	HR 9-9. Professional Appearance Policy	Action	Tab 5	Bart Olsen
1:50	Old Business/New Business			
2:00	Adjourn			

2022 Meetings:

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

TAB 1

Minutes

February 4, 2022

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

Webex video conferencing
February 4, 2022: 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:

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.

TAB 2

HR 15-3 and 15-4. Workplace Harassment Investigative Procedures

HR 16-2 and 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 15-4 and 16-3 and CJA 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 of workplace harassment, discrimination, or retaliation in violation of HR15-1 or HR15-2 are submitted as described in HR15-3, an investigation 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.
 - iv) Costs for third party investigations shall be the responsibility of the judicial branch.
 - b) Allegations of workplace harassment against a judicial officer shall may 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
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

Commented [KW1]: Might there be a time when the MC/JC does not wish to interview the judge at the initial phase in order to protect the complainant? The MC has made that determination in circumstances involving serious sexual harassment allegations. Could the MC order that accused judicial officers be interviewed and allowed an opportunity to respond after the MC has reviewed the initial investigation results?

Commented [KW2]: Is the Chief taking action on the part of the MC and/or JC? Do we need to say the MC or JC? Will there ever be a time when the MC does not feel a referral to the JC is warranted, but wishes to take minimal action, such as having a conversation with the judge? Does this mean that the Chief has to have that discussion?

Commented [KW3]: Notified that the investigation is complete?

- 150 giving notice to the interviewer that the interview is being recorded.
- 151 iii) The representative may assist the ~~interviewee~~employee by consulting with
- 152 the ~~interviewee~~employee prior to the interview and may assist the
- 153 employee during the interview by asking the ~~investigator~~interviewer to
- 154 clarify a question. The representative may not tell an ~~interviewee~~employee
- 155 what to say in response to a question nor unduly interrupt or otherwise
- 156 interfere with the ~~investigator's~~interviewer's ability to conduct the interview.
- 157 iv) If the investigator determines the representative is interfering with the
- 158 integrity of the interview and/or the investigator's ability to conduct the
- 159 interview, the representative may be removed from the interview.
- 160 c) When necessary to protect the integrity of the investigation, an investigator may
- 161 order an ~~interviewee~~employee not to disclose the contents or matters discussed in
- 162 an investigative interview. Disregarding this order may be grounds for disciplinary
- 163 action.
- 164 d) When requested by the investigator, ~~interviewees~~employees must provide
- 165 evidence (testimonial or non-testimonial) related to the incident being investigated.
- 166 Refusal to do so may be grounds for disciplinary action.
- 167 ~~d)e)~~ The subject of an interview may make a written request for records of the
- 168 interview in accordance with HR15-5 and UCJA 4-202.02.
- 169

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.
- 4) 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.
- ~~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.

HR16-3. Investigative Procedure.**Investigators**

- 1) When ~~warranted due to~~ allegations of abusive conduct in violation of HR16-1 are submitted as described in HR16-2, investigations shall be conducted as follows:~~based on HR standards and business practices.~~
 - a) ~~Allegations againstof abusive conduct by~~ non-judicial officer employees shall be ~~investigated~~conducted by ~~investigators in~~ the HR Department, Legal Department, or an external third-party.
 - 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 againstof abusive conduct by~~ judicial officers shall be referred immediately to the Chair and Vice Chair of the Judicial Council ~~to beand~~ handled in accordance with policies of the Judicial Council.
 - c) An investigation may be conducted by the HR Department, Legal Department, or an external third party if specifically requested by the Chair, Vice Chair, or Management Committee of 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 HR16-3(1)(c)(i).
 - iii) External investigators may include but are not limited to personnel identified in HR16-3(1)(a)(iii).
 - iv) Costs for third-party investigations shall be the responsibility of the judicial branch.
 - ~~b)d)~~ Investigators shall perform all other investigative procedures consistent with those found in HR15-4(1)(c).

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 the interview by asking the interviewer to clarify a question. The representative may not tell an employee what to say in response to a question nor unduly interrupt or otherwise interfere with the 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 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, employees must provide evidence (testimonial or non-testimonial) related to the incident being investigated. Refusal to do so may be grounds for disciplinary action.~~

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

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 3

HR 01. Definitions

HR 8-14. Dual State Employment

HR 9-11. Conflict of Interest

HR 9-12. Political Activity

Notes: In reviewing HR policies, Bart and I discovered that certain sections of the policy related to employee ethics are incorrect, particularly HR 9-12 allowing political activity pursuant to the Hatch Act. That language was copied from executive branch policies in error. Judicial branch employees are subject to more restrictions than employees in other branches of government.

Although judicial employees are not subject to all provisions of the Code of Judicial Conduct, the ethics advisory committee has determined that court employees must, at a minimum, observe all code provisions which require diligence and fidelity, pointing to [rule 2.12\(A\)](#): “A judge shall take reasonable measures to require court staff, court officials, and others subject to the judge’s direction and control to act in a manner consistent with the judge’s fulfillment of his or her obligations under this Code.”

In informal advisory opinion (IAO) [97-6](#), the committee stated that while the term “staff” is not defined in the Code, the term “includes all those who are employed by the judiciary...” The opinion also states that [rule 3.4](#) (“A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law,* the legal system, or the administration of justice”) is a standard of fidelity and court employees must follow it. The committee noted that governmental appointments may “erode the appearance of impartiality” and may “interfere with the effectiveness and independence of the judiciary.”

See also IAO [98-5](#). Finding that a court clerk could not participate in a mobile watch program, the committee states: “Because of th[e] connection to law enforcement activities, persons may reasonably question the impartiality of the court and its connection with community law enforcement if a judge, or court personnel closely identified with a judge, participate. The...judge should comply with her ethical administrative responsibilities and ensure that participation by a court clerk does not occur.” The committee also found that, “Activities on the part of court employees which may undermine the appearance of impartiality or independence of the judiciary are prohibited under the Code.”

There are other relevant ethics opinions not referenced here. Because there are nuances to each of the advisory committee’s determinations, the revisions I’m recommending are somewhat general in nature.

HR01. Definitions.

(97) "**Prohibited Political Activity**": Running for or holding political or elective public office; making or influencing governmental policy unrelated to the performance of official court responsibilities; ~~or active support of a partisan or special interest public policy agenda;~~ or any activity that violates HR09-12.

HR08-14. Dual State Employment.

(9) Secondary positions in state government must not interfere with the efficient performance of the employee's primary position. violate Section 9 of this policy, ~~nor create a conflict of interest for any state entity. An employee in dual employment status shall comply with conditions under HR09-2(1).~~

HR09-11. Conflict of Interest.

(9) An employee shall not solicit, accept, or agree to accept any gift, loan, gratuity, discount, favor, hospitality, or service under circumstances from which a reasonable inference could be made that a major purpose of the donor is to influence the court employee in the performance of official duties. This provision does not apply to the following:

- a) An award presented in recognition of public service; Any bonafide loan made in the ordinary course of business by any institution authorized by state law or federal law to make such loans;

~~b) Political campaign contributions if used in a political campaign of the recipient public officer or public employee;~~

- ~~c)b)~~ _____ An occasional non-pecuniary gift of nominal value given to all of the employees in an office or team.

HR09-12. Political Activity.

An employee may only participate in political activity that does not jeopardize the confidence of the public or of government officials in the impartiality of the judicial branch of government.

1) An employee shall not participate in political activity which conflicts with or otherwise affects the mission and activities of the judicial branch.

2) Employees of the judicial branch are prohibited from running for, being appointed to, or holding an elected office at any level of government.

3) Employees are prohibited from serving on boards, councils, committees, etc. in the executive or legislative branches, unless the board, etc. deals with the law, the legal system, or the administration of justice. This applies at both the state and local levels.

4) Employees may not be a member of an organization that practices invidious discrimination.

5) An employee shall not engage in political activity during work hours, unless on management-approved leave.

6) An employee shall not use any state owned equipment, supplies or resources when engaged in political activity.

7) An employee shall not discriminate in favor of or against any person, including but not

limited to court patrons, employees, or applicants for employment, based on political activities.

8) An employee shall not use any information related to employment in the judicial branch while engaging in political activity, including but not limited to the employee's job title, position, assignments or activities as an employee of the judicial branch.

9) Political and religious statements, displays, and discussions must remain out of the workplace, especially in areas visible to or within earshot of the public.

10) Trial Court Executives, directors, court administrators, and other employees in policy-making positions may be subject to additional restrictions on political activity. If there is a question about further restrictions, prior to engaging in such activity, the employee must submit the information to the HR director and the employee's supervisor who will seek a legal opinion from the AOC General Counsel's Office before approval, denial or conditional approval.

A state employee may voluntarily participate in political activity, except as restricted by this section or by the U.S. Hatch Act, 5 U.S.C. Sec. 1501 through 1508.

~~1) As modified by the Hatch Modernization Act of 2012, 5 U.S.C. §1502(a)(3), the Hatch Act restricts the political activity of state government employees whose salary is 100% funded by federal loans or grants.~~

~~a) Employees in positions covered by the Hatch Act may run for public office in nonpartisan elections, campaign for and hold office in political clubs and organizations, actively campaign for candidates for public office in partisan and nonpartisan elections, contribute money to political organizations, and attend political fundraising functions.~~

~~b) Employees in positions covered by the Hatch Act may not be candidates for public office in a partisan election, nor use official authority or influence to interfere with or affect the results of an election or nomination, or directly or indirectly coerce contributions from subordinates in support of a political party or candidate.~~

~~2) Prior to filing for candidacy, an employee who is considering running for a partisan office shall submit a statement of intent to become a candidate to the court level administrator.~~

~~a) The court level administrator shall consult with the HR Director or designee and General Counsel.~~

~~b) The HR Director or designee shall, in consultation with General Counsel, determine whether the employee's intent to become a candidate is covered under the Hatch Act.~~

~~c) Employees in violation of HR09-4(1)(b) may be disciplined up to and including termination of employment.~~

~~3) If a determination is made that the employee's position is covered by the Hatch Act, the employee may not run for a partisan political office.~~

~~a) If the employee files for candidacy and it has been determined that the employee's position is covered by the Hatch Act, management shall dismiss the employee from employment.~~

~~4) Any career service employee elected to any partisan or full-time non-partisan political office shall be granted a leave of absence without pay for times when monetary compensation is received for service in a political office.~~

~~5) During work time, no employee may engage in any political activity. No person shall solicit~~

~~political contributions from employees of the judicial branch during hours of employment.
However, an employee may voluntarily contribute to any party or any candidate.~~

~~6) This policy incorporates by reference the United States Hatch Act as currently amended.~~

~~7)1) _____ Decisions regarding employment, promotion, demotion, dismissal, or any other
human resource actions may not be based on partisan political activity.~~

TAB 4

HR 8-22. Out-of-State Work Policy

Notes: This is a new policy related to recent rules adopted by State Finance. Technically, their rule doesn't apply to us because certain pieces of it only make sense for the executive branch. At the same time, we are dependent upon their resources to process payroll and apply payroll taxes, so our policies need to harmonize with their new rules.

The new State Finance rule is attached for context. Proposed HR 8-22 has been approved by Ron, Cathy, Karl, and Alisha.

HR08-22. In-State and Out-of-State Work.

- 1) This policy establishes the conditions under which judicial branch employees may work outside of the state, provides that employees' tax withholdings be paid to the state, and provides for the security of judicial branch information technology systems.
- 2) The intent of this policy is to provide mutually beneficial outcomes to the judicial branch and its employees including but not limited to the following ways:
 - a) Providing employment opportunities to citizens of the state;
 - b) Allowing out-of-state employment when doing so is in the best interest of the judicial branch;
 - c) Retaining within the state that state income tax paid by judicial branch employees with minimal exceptions;
 - d) Minimizing costs borne by the state to provide workers' compensation and liability coverage for out-of-state workers.
- 3) General Requirements.
 - a) An employee may perform work only while physically within the state's borders.
 - b) An employee's state employment-related tax withholdings are paid to the state and the employee acknowledges that any compensation paid by the judicial branch is deemed earned within the state.
 - c) An employee may not take property or equipment owned by the judicial branch outside of the United States without prior approval from a Court Level Administrator.
 - d) When an employee is sent outside of the state for business reasons and the duration of time is fewer than 30 days within a calendar year, the employee shall follow business travel policies established by the Department of Finance, found in the Accounting Manual.
 - e) An employee traveling outside of the state for judicial branch business reasons may perform work outside the state if the duration of time is fewer than 30 days.
- 4) Exceptions.
 - a) An employee is ultimately responsible for paying the proper amount of tax to the appropriate taxing

authorities when an exception is granted under this section.

- b) An employee who travels to another state for personal reasons and the duration of time is fewer than 30 days within a calendar year may not perform work in that state without prior approval from the employee's supervisor.
- c) An employee who desires to work in another state for more than 30 days within a calendar year shall seek prior written approval from management to work in that state.
- d) A manager seeking to allow or to require an employee to work for more than 30 days outside of the state within a calendar year, including the possibility of living outside of the state, shall do the following:
 - i) Obtain written approval from a Court Level Administrator or designee;
 - ii) Inform the HR Department that the employee will be working outside of the state and provide the employee's new out-of-state address;
 - iii) Notify and request the Division of Finance in the Utah Department of Government Operations to set up tax withholdings to be paid to the state in which the employee is working;
 - iv) Notify and request the Division of Risk Management in the Utah Department of Government Operations to ensure the employee will be protected by workers' compensation insurance and other appropriate and available travel and liability coverage or insurance; and
 - v) Reimburse at the established rate the Division of Finance, Division of Risk Management, or other state entity for costs incurred to research and establish tax withholdings, workers' compensation, travel, and liability policies, or any other requirements to cover the employee while working outside the state.
- e) An employee who plans to travel outside of the United States and who will be required or desires to work while outside of the United States shall obtain prior written approval to work from the State Court Administrator or Deputy State Court Administrator.
- f) An employee who plans to travel outside of the United States and desires to take equipment or property owned by the judicial branch shall obtain prior written

approval from the Chief Information Officer (CIO) or designee who shall assess the security and legal issues of accessing systems on judicial branch owned equipment while the employee is outside of the United States.

i) After obtaining CIO or designee approval, the employee's Court Level Administrator or designee shall:

- (1) Notify and request the Division of Risk Management in the Utah Department of Government Operations to assess the availability of workers' compensation insurance coverage and the need for travel insurance and general liability coverage;
- (2) Notify and request the Division of Finance in the Utah Department of Government Operations to review potential tax implications if the employee would be working outside of the United States for more than 30 days within a calendar year; and
- (3) Reimburse at the established rate the Division of Risk Management or other state entity for costs incurred to research workers' compensation, travel, and liability policies, or any other requirements to cover the employee while working outside the United States.

g) Any other exemption to HR08-22 must be granted in writing by the State Court Administrator or designee.

R13. Government Operations, Administration.

R13-4. In-State Work Location Rule.

R13-4-1. Authority and Purpose.

- (1) This rule is authorized by Section 63A-1-105.5.
- (2) This rule establishes the conditions under which employees may work outside of the state, provides that employees' tax withholdings be paid to the state, and provides for the security of state information technology systems.
- (3) This rule provides the following positive outcomes:
 - (a) providing employment opportunities to citizens of the state;
 - (b) keeping in the state income tax paid by state employees; and
 - (c) minimizing costs borne by the state to provide workers' compensation and liability coverage for out-of-state workers.

R13-4-2. Definitions.

- (1) "Agency" means the same as defined in Subsection 63A-1-103(1), except that "agency" does not include the Office of the State Treasurer, the Office of the State Auditor, the Office of the Attorney General, the legislature, or the courts.
- (2) "DHRM" means the state Division of Human Resource Management.
- (3) "Employee" means an individual employed by an agency.
- (4) "Executive director" means the executive director, commissioner, or other chief administrative officer of a department-level agency.
- (5) "State" means the state of Utah.
- (6) "State-owned equipment" means personal computers, tablets, or cell phones provided by an agency to an employee for the employee's work.
- (7) "United States" means the 50 states and the District of Columbia.
- (8) "Work" means performing the duties for which the employee is hired by the agency.

R13-4-3. General Requirements.

- (1) An employee may work only while physically within the state's borders.
- (2) An employee's state employment-related tax withholdings are paid to the state and the employee acknowledges that any compensation paid by the agency is deemed earned within the state.
- (3) An employee may not take state-owned property outside of the United States without prior approval.
- (4) An agency and an agency's employee shall follow the agency's business travel policy when an employee is sent outside of the state for business reasons for fewer than 30 days within a calendar year.

R13-4-4. Exceptions.

- (1) For all exceptions detailed in this section, the employee is ultimately responsible for paying the proper amount of tax to the appropriate taxing authorities.
- (2) Exceptions to this rule are rare in order to maximize the outcomes described in Subsection R13-4-1(3).
- (3) An employee who travels to another state for personal reasons for fewer than 30 days within a calendar year may not work within that state without prior approval from the employee's supervisor.
- (4) An employee who desires to work in another state for more than 30 days within a calendar year shall obtain prior written approval to work in that state from the employee's executive director.
- (5) An employee traveling on agency business may work outside of the state if the assignment is for fewer than 30 days.
- (6) An agency that desires to allow or require an employee to work for more than 30 days outside of the state within a calendar year, including the possibility of living outside of the state, shall:
 - (a) obtain approval from the Governor's Office or designee by completing and submitting an Exception Request - Regularly Work Outside the State, available from DHRM;
 - (b) instruct the employee to notify DHRM:
 - (i) that the employee will be working outside of the state; and
 - (ii) of the employee's new out-of-state address;
 - (c) notify and request the Division of Finance to set up tax withholdings to be paid to the state in which the employee is working;
 - (d) notify and request the Division of Risk Management to ensure the employee will be protected by workers' compensation insurance and other appropriate and available travel and liability coverage or insurance; and
 - (e) reimburse at the established rate the Division of Finance, the Division of Risk Management, or other state entity for costs incurred to research and establish tax withholdings, workers' compensation, travel, and liability policies, or any other requirements to cover the employee while working outside the state.
- (7) An employee who plans to travel outside of the United States and who will be required or desires to work while outside of the United States shall obtain prior written approval to work from the employee's executive director.
- (8) An employee who plans to travel outside of the United States and desires to take state-owned equipment shall obtain prior written approval from the employee's executive director or designee.
- (9) An agency that desires to approve an employee to work and take state-owned equipment outside of the United States shall:

- (a) obtain approval from the Governor's Office or designee by completing and submitting an Exception Request - Equipment form, available from the Governor's Office;
 - (b) notify and request the Division of Risk Management to assess the availability of workers' compensation insurance coverage and the need for travel insurance and general liability coverage;
 - (c) notify and request the Division of Technology Services to assess the security and legal issues of accessing state systems on state-owned equipment while the employee is outside of the United States;
 - (d) notify and request the Division of Finance to review potential tax implications if the employee would be working in a country outside of the United States at the agency's request for more than 30 days within a calendar year; and
 - (e) reimburse at the established rate the Division of Risk Management, the Division of Technology Services, or other state entity for costs incurred to research workers' compensation, travel, and liability policies, or any other requirements to cover the employee while working outside the United States.
- (10) Any other exception must be granted by the Governor's Office or designee.

KEY: state employee, work location

Date of Enactment or Last Substantive Amendment: July 1, 2021

Authorizing, and Implemented or Interpreted Law: 63A-1-105.5

TAB 5

HR 9-9. Professional Appearance Policy

Notes: The Human Resources Policy Resource Committee is recommending significant changes to the professional appearance policy.

HR09-9. Professional Appearance

- 1) Employees of the judicial branch are expected to comply with the following professional responsible to adhere to dress and grooming standards: ~~as established by management.~~
 - a) Clothing should be neat, clean and appropriate for the business environment. ~~General professional attire and appearance standards are located [here](#).~~
 - i) Written messages on clothing should be avoided, although minimal brand/logo writing may be considered acceptable, subject to management discretion.
 - ii) Management may exercise reasonable discretion to require that staff wear traditional business or business casual attire (e.g., suit/tie, sport coat/slacks and button down shirt, dress or blouse/skirt, etc. as determined appropriate by management) to meetings, court hearings, or other events as needed.
 - iii) Management may designate certain days, events, or circumstances when a dress standard more casual than normal is allowed.
 - b) ~~Exceptions to these standards may be made by a court executive or designee, or court level administrator or designee.~~ Perfumes or colognes should be avoided if possible or used sensitively in moderation considering individuals sensitive to strong fragrances.
 - c) Table 1 is provided as a guideline, giving suggested examples of appropriate business attire and attire not usually recommended.

Table 1.

Appropriate Attire	Not Recommended
Dress slacks/khaki-style pants	Tank-top or halter top
Dress shirt (button-down long or short sleeved) or blouse	Strapless or spaghetti strap dress/shirt
Polo or golf-style shirt	Shorts
Sweater	Hat

Dress	Beach-style flip flops
Skirt	Athletic slides
Jeans/sneakers (casual day or event only)	Tee shirt

- 2) Exceptions to these standards may be made on a case by case basis by management, in consultation with an appropriate judicial officer with authority over a courtroom or courthouse, as needed.
- 3) Requests for exceptions to this policy to accommodate religious beliefs, health conditions or disabilities should be referred immediately to a member of the HR Department.
- 4) Employees may safely comply with this policy in a manner consistent with their gender identity, gender expression, etc., with protections under HR15 and HR16.

Utah State Courts

Professional Appearance Policy

A diverse group of approximately 15 court employees of various ages and ethnicities are smiling and standing together in a group photo. They are dressed in professional attire. The background is a blurred indoor setting.

Purpose

The purpose of this policy is to establish consistent statewide guidelines for a court employee's appearance. As a court employee you are interacting with the public, stakeholders, and coworkers in a variety of settings from the front counter to the courtroom, to the community, and offices in courthouses throughout the state. Your responsibility is to present a clean, neat, and professional appearance ensuring that it is within the professional guidelines and responsibilities of your position. This policy is designed to present the guidelines so that each employee can make an informed decision which conforms with both the policy and the employee's individual style.

The following guidelines apply to all court employees. Exceptions to this policy may be made where required by law to accommodate religious beliefs, a medical condition, or disability. The images presented throughout the policy are to provide examples of appearance that do or do not comply with the guidelines of the policy and should not be considered an inclusive list.

Essential Guidelines

Personal Grooming

As a court professional please follow all reasonable personal grooming guidelines, including regular bathing and use of deodorant. Also, please be considerate of others and avoid highly fragrant perfume/cologne/essential oils or grooming products as they may affect others in the work environment.

Tattoos and Piercings

Visible tattoos on the face are not allowed. Other visible tattoos are permitted so long as they are not obscene, violent, profane, racist, sexual, or gang related. Accordingly, any prohibited tattoo(s) should be covered with clothing compliant with this policy or by the use of concealing makeup.

Ear piercings, ear gauges, eyebrow, and nose piercings should be of professional appearance and consistent with your job responsibilities. Septum, lip, and tongue rings or studs are not professionally appropriate and are not to be worn on duty. Body piercings with jewelry that can be seen through or under clothing are not to be worn during work hours.

Essential Guidelines

Style is a personal preference but should remain within guidelines



Acceptable



Not Acceptable



Acceptable



Acceptable



Acceptable

Visible tattoos on face
are prohibited

Standard Professional Attire Guideline

Court employees have various roles throughout the judiciary which may have guidelines unique to the role. The following guidelines should be adhered to when appropriate given your role.

Standard Professional Attire Guideline

The standard professional attire guideline applies Monday through Friday unless one of the other guidelines detailed elsewhere in this policy is applicable. The standard professional attire guideline includes the following:

- Blouses or collared button down dress shirts
- Sweaters, cardigans, and vests
- Dress pants, trousers, or slacks
- Skirts or dresses
- Professionally appropriate leggings or tights may be worn under skirts or dresses or with a long tunic but not as pants.
- Dress shoes or dress boots
- Blazers, suits, ties are optional, but preferred, when working in court

Standard Professional Attire Guideline



Acceptable



Not Acceptable

Leggings are worn as pants and not beneath a skirt, dress, or long tunic are prohibited.



Acceptable



Acceptable



Acceptable

Standard Professional Attire Guideline



Acceptable



Acceptable



Acceptable



Acceptable

Standard Professional Attire Guideline



Acceptable



Not Acceptable

Guidelines require that leggings should only be worn beneath a skirt, dress, or long tunic.



Acceptable

Blazers, suits, ties are optional when appearing in court.



Acceptable

Casual Day Guideline

Juvenile Court probation work crew staff and probation officers on a tracking assignment may dress to the guideline as detailed below .

Casual Day Guideline

The casual day guideline is applicable on Friday, for full day trainings, or, as occasions require, on a day designated by district or administrative management. Employees working and/or appearing in court on a casual day must comply with the standard professional attire guideline. Casual day guideline clothing includes the following:

- Jeans without holes or excessive fading patterns
- Cargo pants
- Casual shoes, boots, or athletic shoes
- Collared polo shirt — court logo or other small brand logo is acceptable
- Graphics or logos are not permitted on attire other than a court logo or small brand logo

Additional casual guidelines may be applied by management on a limited basis for district/office approved off-site activities.

Casual Day Guidelines



Not Acceptable

Jeans are torn.



Acceptable



Not Acceptable

Sweatshirts are prohibited.



Not Acceptable

T-shirts alone are prohibited.



Acceptable

Casual Day Guideline



Not Acceptable

Tank tops are prohibited.



Not Acceptable

Athletic wear is prohibited.



Not Acceptable

Jeans are torn and unbuttoned shirt with t-shirt does not meet guidelines.



Acceptable

Position Based Exceptions

Juvenile Court probation work crew staff, probation officers on a tracking assignment, and designated information technology staff may dress to the guidelines detailed below .

Juvenile Court Probation Work Crew Staff

The base guideline of appearance for staff on a work crew assignment is the casual day guideline. Additional attire considered appropriate includes:

- T-shirts without graphics (small brand logo acceptable)
- Sweatshirt or hoodie without graphics (small brand logo acceptable)
- Shorts that fall within 3 inches of the knee (no cut-offs, athletic shorts, board shorts)
- Overalls
- Hats without logo or graphics (small brand logo acceptable)
- For safety reasons open toe shoes or sandals are not allowed

Probation Officers on a Tracking Assignment

Probation officers on a tracking assignment have the option to change from the business casual and/or courtroom guidelines to the casual day guideline prior to leaving on a tracking assignment. Additional attire considered appropriate on a tracking assignment include a sweatshirt or hoodie without graphics (small brand logo acceptable) and, in cold weather, appropriate winter hats may be worn (small brand logo acceptable). For safety reasons open toe shoes or sandals are not allowed.

Information Technology Staff

Information Technology staff, as designated by the IT Director, who do not have regular interaction with the public and/or whose job duties regularly include the installation and maintenance of computer hardware have the option of conforming with the casual day dress guidelines Monday through Friday.

Work Crew Guidelines



Not Acceptable

T-shirts with large logos
are not permitted



Acceptable



Acceptable

Shorts are not cut offs and
fall within 3" of knee



Not Acceptable

Athletic or board shorts are
not permitted

Work Crew Guidelines



Not Acceptable



Acceptable



Acceptable



Acceptable

Sweatshirts or hoodies
with large logos are not
permitted

Prohibited Attire and Enforcement

Prohibited Attire

The following is a list of prohibited attire, not to be considered inclusive, is subject to modification by management and may be subject to the Position Based Exceptions detailed elsewhere in this policy.

- Flip flops (other thong style sandals must include a heel strap), athletic sandals, slippers
- T-shirts (with or without logo)
- Hats, beanies
- Tank tops, tank top dresses, tube tops, crop tops, halter tops, off the shoulder tops, and spaghetti straps
- Athletic wear
- Overalls
- Rompers
- Leggings or tights worn without skirt, dress or long tunic
- Sweatshirts/hoodies
- Inordinately revealing or tight clothing
- Skirts or dresses more than 3 inches above the knee (worn without tights or leggings)

Enforcement

Management shall enforce the policy and employees determined to be inappropriately attired may be sent home, on their own time, to change into appropriate attire. Employees with ongoing violations of the professional appearance policy will be subject to discipline in accordance with personnel policies and procedures.

Examples of Prohibited Attire

