

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING, & TECHNOLOGY COMMITTEE
MEETING AGENDA**
September 2, 2022 – 12:00 p.m. to 2:00 p.m.
Webex

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Pullan
12:05	<u>Rules back from public comment:</u> <ul style="list-style-type: none"> • CJA 4-206. Exhibits • CJA 9-107. Justice court technology, security, and training account 	Action	Tab 2	Keisa Williams
12:10	CJA 3-412. Procurement of goods and services	Action	Tab 3	Karl Sweeney Dustin Treanor
12:25	CJA 6-501. Reporting requirements for guardians and conservators	Action	Tab 4	Stacy Haacke Allison Barger Shonna Thomas
12:40	CJA 1-201. Membership - Election CJA 1-302. Membership - Officers - Secretariat	Action	Tab 5	Keisa Williams
12:55	<u>Records requests – associated with case:</u> <ul style="list-style-type: none"> • CJA 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case • CJA 4-202.08. Fees for records, information, and services 	Action	Tab 6	Keisa Williams
1:15	Technology report/proposals <ul style="list-style-type: none"> • CJA 1-204. Executive Committees 	Action	Tab 7	Brody Arishita
1:50	Old Business/New Business			
2:00	Adjourn			

2022 Meetings:

October 7, 2022

November 4, 2022 (all day)

December 2, 2022

TAB 1

Minutes

August 5, 2022

**UTAH JUDICIALCOUNCIL
POLICY, PLANNING and TECHNOLOGY COMMITTEE
MEETING MINUTES**

Webex video conferencing
August 5, 2022: 12 pm -2 pm

DRAFT

MEMBERS:

PRESENT

EXCUSED

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

GUESTS:

Paul Barron
Michael Drechsel
Stacy Haacke
Judge Michelle Christiansen Forster
Kristene Laterza
Jim Peters
Keri Sargent
Nick Stiles
Nathanael Player

STAFF:

Keisa Williams
Brody Arishita
Minhvan Brimhall

(1) Welcome and approval of minutes:

Judge Connors welcomed committee members and guests. The committee considered the minutes from the July 8, 2022 meeting. With no changes, Judge Chiara moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- CJA 4-202.03. Records access
- CJA 6-501. Reporting requirements for guardians and conservators
- Effective 5/23/22 (expedited)
 - CJA 4-508. Guidelines for ruling on motion to waive fees
 - CJA 1-204. Executive Committees
 - CJA 1-205. Standing and ad hoc committee
- Effective 7/1/22 (expedited)
 - CJA 9-109. Presiding judges

The public comment period on the above rules closed on July 15, 2022. No comments were received on rules 4-202.03, 1-204, 1-205, and 9-109. Rules 1-204 and 1-205 were approved on an expedited basis with a May 23, 2022 effective date. Rule 9-109 was also approved on an expedited basis with a July 1, 2022 effective date. No further action is needed on those rules unless the committee makes additional changes. Two (2) substantive comments were received on rule 4-508 and two (2) were received on rule 6-501.

CJA 4-508:

The draft rule in the packet includes the amendments proposed by Michael Drechsel. Ms. Williams believes Judge Westfall's concern is addressed with "at the time of hearing the cause" in subsection (6), which she interprets to mean when the court actually "hears the cause" and considers the merits of the underlying cause of action. The

court uses that opportunity to reassess the decision previously made under subsection (3). “At the time of hearing the cause” is found in 78A-2-304(3)(a): “In cases where an affidavit of indigency under Section 78A-2-302 is filed, the court shall question the individual who filed the affidavit at the time of hearing the cause as to the individual’s ability to pay.” From what she understands, her interpretation of that language is consistent with the legislature’s intent. According to Michael Drechsel, the discussion of the bill with the sponsor before the session, the way the bill was presented during the session, and the debate the legislature engaged in on SB 87 never included any indication that a new hearing would be required. In fact, that would be contrary to the stated intention behind the bill, which was to ease the process of finding individuals indigent for filing fee purposes.

The committee noted that most fee waivers are addressed early on in the case, and in many domestic cases, a hearing is not held because the motions are filed in conjunction with the initial filing. Mr. Drechsel noted that the bill was not intended to disturb the practice of reviewing an affidavit and making a decision as to whether or not a person is indigent. The statutory provision allows a judge to question the party regarding the motion for a fee waiver at the time the hearing is held on the matter, not when the motion is filed.

With no further discussion, Judge Chiara moved to send CJA 4-508 to the Judicial Council for final approval of the new amendments with an August 19, 2022 effective date. Judge Chin seconded the motion. The motion passed unanimously.

CJA 6-501:

The cover sheet is intended to ensure that judges are receiving annual reports from guardians. The Probate Subcommittee to the Rules of Civil Procedure Committee recommends including the process in rule. Ms. Sargent met with the clerks of court to get their feedback on the proposed rule amendment and the cover sheet. The clerks proposed changing the name of the cover sheet from “report cover sheet” to “order on review of annual report.” The clerks also proposed that, rather than requiring a “request to submit,” the Judicial Assistant would accept the report, enter it into the case, and mark the report for the judge to review.

Following discussion, the committee made minor changes. The name of the cover sheet was changed to “Order on Review of Guardian or Conservator Report” (“Order on Review”) and all language referencing the cover sheet was changed to “Order on Review.”

With no further discussion, Judge Chin moved to send CJA 6-501 to the Judicial Council for final approval with a November 1, 2022 effective date. Judge Chiara seconded the motion. The motion passed unanimously.

(3) CJA 4-202.02. Records classification.

As currently written, the rules are unclear as to what happens to a record previously designated as sealed if it is included in the overall record on appeal. The concern is highlighted in a scenario where sealed records are included in the overall record on appeal, and by default are likely classified as “private records,” resulting in for example, all parties to the action having access. The proposed amendments to rule CJA 4-202.02 will allow records sealed by the trial court to remain sealed even if included in the record on appeal. The records may be unsealed by court order. The amendments would mirror other rules on sealed records. The Board of Appellate Court Judges supports the proposed amendments.

With no further discussion or concerns, Judge Chin moved to send CJA 4-202.02 to the Judicial Council for approval for a 45-day public comment period. Judge Chiara seconded the motion. The motion passed unanimously.

(4) Appendix B. Justice Court Standards for Recertification.

Rule 9-108 requires that justice court standards be reviewed and updated every two years. The Board of Justice Court Judges recommends the proposed amendments to Appendix B. The amendments clean up the rule and incorporate recent legislative changes.

The committee discussed the proposed amendments and made minor language changes. The word “creating” was replaced with “operating” throughout the rule. Line 136 was modified to read: “All court hearings shall be conducted in a designated courtroom, including remote transmission, as permitted by the Judicial Council, or in another location authorized by the Presiding Judge.”

With no further discussion, Judge Chiara moved to send Appendix B to the Judicial Council for approval for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

(5) Deferred Traffic Prosecution – Automated Orders:

- Automated orders
- Standing order
- CJA 3-108. Judicial assistance
- CJA 4-208. Automated expungement of cases
- CJA 4-403. Electronic signature and signature stamp use

HB 139 (77-2-4.2), deferred traffic prosecution, goes into effect on October 1, 2022. The proposed rule amendments and orders authorize the AOC to implement automated processes and automatically affix signatures without judicial review, similar to the clean slate expungement process. A detailed outline of how the system would work is included in the packet. The code contemplates an administrative fee to be paid by participants to cover costs associated with the development and implementation of the system. Under 77-2-4.2(5)(h)(i), the “Judicial council shall set and periodically adjust the fee...in an amount that the judicial council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program...” The use of automated orders will help keep the administrative fee lower and more cost effective for court patrons.

Regardless of whether the Judicial Council approves the use of an automated or manual system, the Council will need to set an initial administrative fee to cover costs associated with implementing and administering the program and rely on AOC staff to provide periodic reports and recommendations on any necessary adjustments. The proposed fee amount is \$5.00, but that amount may be modified depending on how many court patrons take advantage of the process. Patrons would have access through their MyCase account.

The committee did not express concerns with the proposed process or orders and made minor language changes to rules 3-108, 4-208, and 403.

With no further discussion, Judge Chiara moved to send the proposed orders and rule amendments to the Judicial Council with a recommendation that the automated process, \$5.00 administrative fee, automated orders, and proposed rule amendments be approved on an expedited basis with an October 1, 2022 effective date. Judge Chin seconded the motion. The motion passed unanimously.

(6) Technology report/proposals:

Mr Arishita did not have anything new to report. He will be meeting with Judge Pullan to create a rule for the Ad Hoc Technology Committee, as discussed at the last meeting. Mr. Arishita hopes to have a rule prepared for discussion at the next meeting.

Mr. Arishita asked if the committee had any concerns with the new rule and technology amendment request form. The committee did not express any concerns.

Old Business/New Business:

None

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

TAB 2

Rules back from Public Comment

CJA 4-206. Exhibits (*1 comment in favor*)

CJA 9-107. Justice court technology, security, and training account (*no comments*)

Notes: The public comment period on the above rules has closed. No comments were received on rule 9-107. Rule 4-206 received one comment in favor of the proposed amendments. No additional changes are recommended.

Rule 4-206. Exhibits.**Intent:**

To establish a uniform procedure for the receipt, maintenance and release of exhibits.

Applicability:

This rule shall apply to all trial in courts of record and not of record, except small claims court. In the discretion of the court, this rule may apply to any proceeding in which exhibits are introduced.

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

(1)(A) **Marking Exhibits.** Prior to trial, or at a time specified by the judge, each party must mark all exhibits it intends to introduce by utilizing exhibit labels in the format prescribed by the clerk of court. Labels or tags must include, at a minimum, a case number, exhibit number/letter, and an appropriate party designation. With approval of the court, a photograph may be offered by the submitting party as a representation of the original exhibit.

(1)(B) **Digital Exhibits.** Digital exhibits must be marked as provided in paragraph (1)(A) and submitted to the court as prescribed by the clerk of court. Exhibits should not be eFiled.

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

(2) Exhibit custody during trial.

(2)(A) **Custody of the Parties.** During the trial, bulky and sensitive exhibits, and exhibits that require law enforcement chain of custody, will remain in the custody of the party offering the exhibit. Such exhibits include, but are not limited to: biological evidence, biohazards, controlled substances, paraphernalia, firearms, ammunition, explosive devices, pornographic materials, jewelry, poisonous or dangerous chemicals, intoxicating liquors, money or articles of high monetary value, counterfeit money, original digital storage media such as a hard drive or computer, and documents or physical exhibits of unusual bulk or weight. The clerk of court or designee must list these exhibits in the exhibit list and note that the original exhibit is in the custody of the party.

(2)(B) **Custody of the Court.** Physical exhibits received during trial, other than those in paragraph (2)(A), must be placed in the custody of the clerk of court or designee. Digital exhibits received as evidence by the court during the trial shall be stored electronically or on digital media such as a thumb drive and stored in accordance with paragraph (2)(C). The clerk of court or designee must list all exhibits in the exhibit list, and the list shall be made a part of the court record. An exhibit list may be the court's designated case management system or a form approved by the Judicial Council.

(2)(C) **Secured Storage.**

(2)(C)(i) Upon daily adjournment, the clerk of court or designee must compare the exhibit list with the exhibits received that day. Digital exhibits received under paragraph (2)(B) shall be stored electronically in a manner meeting the requirements outlined in paragraph (3)(A)(ii). Physical exhibits received under paragraph (2)(B) must be stored in an envelope or container, marked with the case number, and stored in a secured storage location that meets the requirements outlined in paragraph (3)(A)(ii).

(2)(C)(ii) Exhibits may be stored in a temporary secured location for no more than 72 hours, provided the temporary location is sufficient to prevent access by unauthorized persons, and the location is secured with a key lock, combination lock, or electronic lock. Access to the temporary storage location shall be limited to the clerk of court, judge, or a designee.

(3) Exhibit custody prior to disposition.

(3)(A) **Pending Disposition.** Exhibits in the court's custody pursuant to paragraph (2)(B) may not be taken from the custody of the clerk of court or designee until final disposition of the case, except upon order of the court and execution of a receipt that identifies the material, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record.

(3)(A)(i) **Exhibit Manager.** The clerk of court shall appoint an exhibit manager with responsibility for the security, maintenance, documentation of the chain of custody, and disposition of exhibits. The clerk of court may also appoint a person to act as exhibit manager during periods when the primary exhibit manager is absent. Unaccompanied or unauthorized access to secured storage locations by anyone other than the exhibit manager, acting exhibit manager, or the clerk of court is prohibited without a court order.

(3)(A)(ii) **Secured Storage Location.** Each court must provide physical and electronic secured storage locations within their facility for storing exhibits retained by the court under subsection (2)(B), and shall maintain a current inventory list of all exhibits in the court's custody. The physical secured storage location must be sufficient to prevent access from unauthorized persons, secured with a key lock, combination lock, or electronic lock, and protected from theft or damage. The electronic secured storage location should be sufficient to prevent access from unauthorized persons. Prior to use, physical and electronic secured storage locations must be certified by the Court Security Director. Requests for certification must be made in writing and shall fully describe the secured storage location, local access procedures, and security controls. Any changes to the location, access procedures, or security controls require recertification by the Court Security Director.

(3)(B) **Exhibit custody post disposition.** In courts of record, upon final disposition of the case, exhibits in the court's custody shall be disposed of or returned to the offering parties pursuant to paragraph (5). The clerk of court, exhibit manager, or designee shall execute a receipt identifying the material taken, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record. In courts not of record, upon final disposition of the case, all exhibits shall be returned to the parties.

(3)(C) **Exhibits in the custody of the parties.** Unless otherwise ordered by the court, exhibits identified in paragraph (2)(A) shall remain in the custody of the parties until they are eligible for disposal pursuant to paragraph (5). Parties are responsible for preserving exhibits in the same condition as when they were first admitted into evidence.

(3)(D) **Access to exhibits by parties.** Parties may file a motion requesting access to an exhibit in the custody of the court or another party. Upon order of the court, the clerk of court, exhibit manager or designee, or party with custody of the exhibits shall promptly make available for examination exhibits, or original or true copies of the exhibits.

(4) **Appeals.** Exhibits and exhibit lists shall be provided upon appeal in accordance with the Utah Rules of Appellate Procedure.

(5) **Disposal of exhibits.** Parties with custody of biological evidence must comply with Title 53, Chapter 20, Forensic Biological Evidence Preservation. Parties may dispose of, and exhibit managers, clerks of court, or designees shall dispose of any other exhibits in their custody 90 days after the time for appeal has expired, or the statute of limitations for post-conviction relief, including the time for appeal from post-conviction relief has expired, whichever is later. Exhibits in the court's custody shall be disposed of as follows:

(5)(A) Property having no monetary value shall be destroyed by the exhibit manager, clerk of court, or designee. The exhibit manager shall create a certificate of destruction including a description of the exhibit, the case and exhibit numbers, and the date and time of the destruction. The certificate of destruction shall be made a part of the court record.

(5)(B) Property having monetary value shall be returned to its owner or, if unclaimed, shall be given to the prosecuting agency, sheriff of the county, or other law enforcement agency to be sold in accordance with Utah Code. The receiving agency shall furnish the court with a receipt identifying the receiving agency, the exhibit received, and the date and time the exhibit was received. The receipt shall be made a part of the court record.

Effective: November 1, 202~~2~~⁴

Rule 9-107. Justice court technology, security, and training account.**Intent:**

To establish the process for allocation of funds from the Justice Court Technology, Security, and Training restricted account.

Applicability:

This rule shall apply to all applications for and allocations from the account.

Statement of the Rule:

(1) Any governmental entity that operates or has applied to operate a justice court may apply for funds from the account for qualifying projects. Local governmental entities may only use the funds for one-time purposes, and preference will be given to applications that propose to use the funds for new initiatives rather than for supplanting existing efforts.

(2) The Board of Justice Court Judges, through the Administrative Office of the Courts, may apply for funds from the account for qualifying projects.

(3) The Administrative Office of the Courts may apply for funds from the account for qualifying projects, and may use the funds for ongoing support of those projects.

(4) Qualifying projects are those that meet the statutory requirements for the use of the account funds.

(5) Funds will be distributed on or about July 1 of each year in which funds are available, and applications for those funds must be made by April 15 of the same year on forms available from the Administrative Office of the Courts. All applications for funds shall be first reviewed and prioritized by the Board of Justice Court Judges. ~~The Board's, and that~~ recommendations, ~~along with all timely applications~~ shall then be forwarded to the Budget and Fiscal Management Committee of the Judicial Council. The ~~Management Committee~~ Judicial Council will then make the final awards.

(6) An entity receiving funds shall file with the Board of Justice Court Judges an accounting, including proof of acquisition of the goods or services for which the award was granted. The accounting shall be filed no later than July 15 for activity during the previous fiscal year.

Effective: ~~September 6, 2005~~ November 1, 2022

TAB 3

CJA 3-412. Procurement of Goods and Services

Notes: The Small Purchase limits (when multiple quotes are not required) have been increased to \$5,000 per item and up to \$10,000 for an entire purchase. The Budget & Fiscal Management Committee approved the increase to mimic policies that the Executive Branch and State Purchasing have already implemented. Corresponding amendments have been made to the Accounting Manual (attached).

Rule 3-412. Procurement of goods and services.**Intent:**

To identify the respective responsibilities of the judiciary and the Department of Administrative Services in the procurement of goods and services.

Applicability:

This rule shall apply to the judiciary's expenditure of funds appropriated by the legislature.

Statement of the Rule:

(1) **Definitions.** Except as provided in Subsection (2), All terms are defined as provided by the Utah Procurement Code, as amended, the Regulations of the Utah State Procurement Policy Board, as amended and the Division of Purchasing's Policies and Procedures. Any discrepancy between the statutory definition and the definition contained in the regulations shall be controlled by the statutory definition.

(2) **Chief procurement officer**~~Purchasing authority. Under the Utah Code~~As used in this rule, chief procurement officer means the state court administrator~~is the purchasing authority for the judiciary in the expenditure of appropriated funds for the procurement of supplies, services, and construction.~~

(3) **Procurement officers.** The state court administrator may designate a others to serve as procurement officers for various parts of the judiciary. For example, cCourt executives are the procurement officers for their courts. The state court administrator or designee or a procurement officer may enter into contracts or make written determinations with respect thereto as provided in this rule. Court Purchasing will advise procurement officers on purchases to ensure compliance with rules, policies, and statutes.

(4) Contracts to conform to statute and regulations.

(4)(A) All contracts for the procurement of supplies, services, or construction entered into, by or on behalf of the judiciary, shall conform to the Utah Procurement Code, as amended, the Regulations of the Utah State Procurement Policy Board, as amended and the Division of Purchasing's Policies and Procedures. Any discrepancy between the procedures provided for by statute and the procedures provided for by regulation shall be controlled by the statutory procedures.

(4)(B) Subject to the availability of funds, the state court administrator may establish within the administrative office a procurement section that shall have the responsibility and authority as provided by the Utah Procurement Code and the Regulations of the Utah State Procurement Policy Board. Unless a procurement section is established, the judiciary shall work with and through the Department of Administrative Services, Division of Purchasing in the procurement of supplies, services, or construction.

(5) **Authority to contract.**

(5)(A) Contracts for the procurement of supplies, services, or construction for an amount greater than \$5000 per individual item or \$10,000 per overall purchase shall be approved by the state court administrator or his designated procurement officer. General eCounsel shall approve such contracts as to form and legal sufficiency, and the manager of finance shall approve such contracts as to availability of funds. Other provisions for contract management contained in this Code shall be followed if they apply to the particular contract.

(5)(B) Requests to enter into contracts greater than \$5000 per individual item or \$10,000 per overall purchase shall be directed to the Chief Procurement Officer or designee~~appropriate state level administrator or the director of support services~~. The Chief Procurement Officer or designee~~state level administrator or the director of support services~~ shall coordinate all procedures required by the Utah Procurement Code, as amended, the Regulations of the Utah State Procurement Policy Board, as amended and the Division of Purchasing's Policies and Procedures. Before final award of the contract, the contract shall be approved pursuant to paragraph (5)(A).

(5)(C) Court executives are authorized to approve and enter into contracts for the procurement of supplies, services, or construction on behalf of their courts when ~~the amount of the contract is not greater than \$5000~~they are under the small purchase rule thresholds of up to \$5,000 for individual items and up to \$10,000 total per purchase. Court executives may enter into such contracts subject to the availability of funds and in accordance with paragraph (4) of this rule.

(5)(D) Procurement requirements shall not be artificially divided so as to avoid the provisions of this rule.

(5)(E) Courts should check to see if items are available on state contract before making a purchase by using the State Purchasing website contract search page or contacting Court Purchasing. Contract Search Page link: <https://statecontracts.utah.gov/Home/Search>.

Effective: November 1, 2022~~08~~

07-00.00 Overview and General Information

Resources:

- Section 07-09 Forms and Instructions or Section 16 Forms, [Section 16-07 Purchasing Forms](#)
- [Section 08-00 Payment Processing](#) for specifics related to PRC's and GMA's
- [Section 07-00.02 State Cooperative Contracts](#)
- [State Purchasing Website](#), [State of Utah Accounting Policies and Procedures](#)
- [Purchasing Flow Chart](#), [Purchasing Checklist](#), [Small Purchasing Overview](#)
- [UCI website](#)
- [Section 01-06.00 Separation of Duties](#) requirements.
- [UCA 63A-3-110 2\(a\)](#)

Purpose:

This purchasing section is intended to document the policies and procedures governing the purchasing process for the State of Utah Courts. As per 63A-3-110 2(a) employees are prohibited from “using public funds for a personal use expenditure.”

Overview: Refer to the [Purchasing Flow Chart](#).

General Information:

The State Division of Purchasing publishes and maintains policies and procedures that provide a systematic arrangement of information covering statewide procurement policies and procedures. This information is found in Section 04, "Purchasing", of the State of Utah Accounting Policies and Procedures Manual. The Courts, while independent from State Purchasing according to UCA 63-56-13 and Rule 3-412, follow these policies. Variance from and amendments to the State of Utah Division of Purchasing policies and procedures are contained in this section.

For the purposes of this section, "Purchaser" is defined as any State Court employee who acts on behalf of any court or departmental subdivision of the State Courts in the process of purchasing or otherwise obtaining goods and/or services.

1. The Purchaser will follow the Regulations of the State of Utah Procurement Policy Board, as amended, and the [State of Utah Accounting Policies and Procedures Manual](#) in State Court purchasing practices, except where specifically stated otherwise within this section or by Judicial Council rule. (See [Rule 3-412](#))
2. Any exception to Judicial Branch Purchasing Policy and Procedure must be approved in writing by the State Court Administrator or designee prior to a Purchaser acting on the exception. Rule 3-412
3. The State Court Administrator is the Chief Procurement Officer for the Judicial Branch.
 - a. Pursuant to Utah Code 63G-6a-304, a Court's Limited Purchasing Delegation has been granted to the Law Library Director allowing for the procurement of proprietary publications and subscriptions costing up to \$50,000 per purchase. The CLPD reference number must be entered into the FINET description line and should be renewed annually (i.e. FY2018 = [CLPD1801](#)).
 - b. Pursuant to Utah Code 63G-6a-304, a Court's Limited Purchasing Delegation has been granted to the Language Access Program Coordinator allowing for interpreters to be paid in excess of \$50,000 per year as an exception to the small purchasing rules and without the need to obtain competitive bids. This is an exception by the Utah State Court Administrator for instances when exceeding this limit cannot reasonably be avoided without impacting needed interpreter services and recognizes the importance of court interpreters in protecting the rights of parties during Court proceedings. This exception does not have to be renewed annually.
4. The Purchasing Manager is recognized as the procurement officer with the authority provided in [Rule 3-412](#).
5. The Court Executives are the procurement officers for their courts, per [Rule 3-412 \(3\)](#) and subject to the limitations stated in Rule 3-412.
6. No form of "vendor favoritism" is acceptable in the vendor selection process.
7. **Grant payments are not exempt from state purchasing and travel policies, in all cases the most stringent rules apply.**
8. Purchasers should select items and services produced or distributed by state agencies before considering other methods.
9. Before using a state cooperative contract the entire contract should be read. All state cooperative contract numbers have prefixes designating what type of contracts they are. (See [Use of State Cooperative Contracts](#) for a complete explanation.)
10. Small purchasing rules prohibit payments to a single vendor exceeding \$50,000 in a fiscal year without a contract.
11. For purchases of \$5,000 or less, the Purchaser may select the best source without seeking competitive quotes (but is encouraged to get 2-3 quotes if multiple vendors are easily available). A vendor on state contract has been vetted by State Purchasing on a variety of issues and therefore should usually be one of the

quotes sought. State contracts cap the amount that can be charged by the vendor but do not prevent the vendor from offering pricing below that stated in the state contract.

12. For purchases of **more than \$5,000.01 up to \$10,000** that are not on **state** contract, the Purchaser must obtain at least two (preferably three) competitive quotes. Quotes may be written or by telephone. If getting quotes by telephone, complete a [Telephone Quotation form](#). The quotes must be for items which are the same or very similar. Documentation of the quotes obtained must accompany the original invoice when submitted for payment.
13. For purchases of **\$10,000.01** or more that **are not on a state cooperative contract**, whether for product or services (single sum or an annual sum), the Purchaser must submit a written request/requisition with detailed specifications to AOC Purchasing to conduct the procurement.
14. For purchases of **\$5,000.01** or more from a vendor in which the Purchaser cannot receive competitive quotes from multiple bidders, the Purchaser must contact AOC Purchasing to see if they need to submit an "Award Without Engaging in Standard Procurement" Sole Source Form. This form must be approved by AOC Purchasing prior to making the purchase.
15. Purchase needs dictated by emergency circumstances, which do not allow time for following normal policy and procedure should be approved by the appropriate State Level Administrator. In absence of the State Level Administrator, approval can be given by the State Court Administrator, the Deputy Court Administrator, or the Purchasing Manager. Hourly rate quotes should be obtained from two or more vendors when purchasing emergency repair services.
16. Unusual purchases are to receive written approval from the immediate supervisor and from the administrator that oversees the work of the department. Approvals need to be submitted with the P-card log to be scanned into FINET.
17. Employee Purchases - some state cooperative contracts; i.e., office supplies, cell phones, allow employees to purchase items at the contract rate for personal use. In this case, the employee must make the purchase themselves and must pay the state sales tax. The employee may not have the Courts pay for an item and then reimburse the cost.
18. Court personnel are authorized to purchase select personal use items such as gloves, disinfecting wipes, masks, tissues and other items that prevent the spread of disease. These items may be provided for use by court personnel and court patrons (such as witnesses, jurors, and other participants in the judicial process) throughout the court public and non-public areas.
19. The purchase of First Aid kits and related materials appropriate to each court and department is an authorized expense.
20. See [Judicial Operations](#) for allocations to judges/senior judges and commissioners for Utah Bar activities, law related books, subscriptions and other similar activities.
21. Purchases and expenses incurred in support of the jury process are authorized, subject to [Judicial Council Rule 4-405](#), as amended, pursuant to UCA

78B-1-101, as amended. Such purchases and expenses include any relevant printing and postage costs.

22. Courts are authorized to purchase wall decorations, clocks, floral arrangements, plants and other similar decorative items for common areas in the courthouses with state funds. These items cannot be purchased by the Courts for personal offices.
23. The policy and operational procedures for all construction (new or remodel) are detailed in the Accounting Policies and Procedures Manual provided by the State Division of Administrative Services, Division of Finance.
24. Final invoice totals which exceed original vendor quotes must be approved by the appropriate State Level Administrator.
25. Court owned property must be disposed of through [Surplus Property](#). If the items being surplus are deemed to be in reasonable condition and possibly needed by another court, please notify AOC purchasing at least 30 days prior to sending property to surplus Property so that other courts may be notified of the availability of such property.
26. Provisions in UCA 55-5 stipulate that first refusal for installation of a vending machine in State Facilities must be given to the [Division of Services for the Blind and Visually Impaired](#). Only if the Division declines to place a vending machine in the facility, may an RFP for vending services be issued.

TAB 4

CJA 6-501. Reporting requirements for guardians and conservators

Notes: Rule 6-501 was sent out for a 45-day public comment period and those comments were discussed at PP&T's August meeting. At its August 19th meeting, the Judicial Council adopted the proposed amendments and approved them as final with a November 1, 2022 effective date. After the Judicial Council meeting, Ron Gordon received an email from a local attorney, Michael Jensen, with the following comments:

"...bring to the attention of the Judicial Council, two errors in the amended CJA 6-501 Rule (i.e., the rule governing the reporting requirements for guardians and conservators) that is to become effective November 1st of this year. Specifically, Rules 6-501(5) and 6-501(9) are inconsistent with each other. Under 6-501(5), "Report Forms", there is an exception for a "corporate fiduciary". Under 6-501(9), such exception was mistakenly omitted. Also, under Rule 6-501(6), Line 124 [now line 91], there is a reference to "Paragraph (4)", but I believe it should be "Paragraph (5)". I suspect it was an oversight when the former paragraph 4 was changed to paragraph 5."

The reference in line 91 was in fact a typo and it has been corrected.

As for sections (5) and (9), the Probate Subcommittee discussed this issue and recommends not exempting corporate fiduciaries from using court approved forms for annual status reports, inventory, and accounting. Therefore, the Subcommittee would recommend no change to the language found in paragraph (9).

The purpose of this recommendation was to comply with Utah Code provisions and streamline the ability of the court to review a report regardless of whether it was from a corporate fiduciary, a self-represented person, or a non-professional. Additionally, this would hold everyone to the same standard.

In making these recommendations for the referenced language in Rule 6-501, the Probate Subcommittee refers to Utah Code [75-5-417\(2\)\(d\) and \(3\)\(a\)](#). Subsection (2)(d) states the Judicial Council shall approve the forms for the accounting reports

described in the statutory subsections (a) and (b), including the accounting and annual report. Forms for the annual reports, inventory, and accounting can be found on the courts website – [here](#). Furthermore, paragraphs (7), (8), and (9) of Rule 6-501 all have the same language in the second sentence of (A) regarding use of substantially the same form as those approved by the Judicial Council, for annual reports, inventory, and accountings.

Finally, U.C. [75-5-417\(3\)\(a\)](#) indicates corporate fiduciaries are not required to fully petition the court but shall submit their internal report annually to the court. This language was incorporated into paragraph 5 of Rule 6-501, but there is no further exception for corporate fiduciaries found in the statute. Rather, a corporate fiduciary may well attach their own accounting or other documents as exhibits to the court form which is required of all filers.

Rule 6-501. Reporting requirements for guardians and conservators.**Intent:**

To establish standards and procedures for annual reports and accountings that guardians and conservators are required to file under the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators.

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

(1)(A) "Accounting" means the annual accounting required by Utah Code Section 75-5-312 and Section 75-5-417 and the final accounting required by Utah Code Section 75-5-419.

(1)(B) "Interested person" means the respondent, if he or she is not a minor, the respondent's guardian and conservator, the respondent's spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code Section 75-5-406. If no person is an interested person, then interested person includes at least one of the respondent's closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code Section 75-5-207.

(1)(C) "Inventory" means the inventory required by Utah Code Section 75-5-418.

(1)(D) "Serve" means any manner of service permitted by Utah Rule of Civil Procedure 5.

(1)(E) "Protected person" means a minor or an incapacitated person for whom the court appoints a guardian or a protected person for whom the court appoints a conservator.

(1)(F) "Report" means the inventory, accounting, or annual report on the status of the protected person under Utah Code Sections 75-5-209 and 75-5-312, and the final accounting under Sections 75-5-210 and 75-5-419

(1)(G) "Respondent" means a person who is alleged to be incapacitated and for whom the appointment of a guardian or conservator is sought.

(2) Exceptions.

(2)(A) Paragraph (4) does not apply to the following:

(2)(A)(i) a guardian licensed under Utah Code Section 75-5-311(1)(a);

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator licensed under Utah Code Section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraph (7)(C) does not apply to the guardian of a minor if the minor's estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) Examination and private information record.

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator.

(3)(B) Before the court enters an order of appointment, the proposed guardian or conservator must file a completed and verified Private Information Record form provided by the Administrative Office of the Courts.

(3)(C) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's contact information.

(4) Recordkeeping. The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records until the appointment is terminated and then deliver them to the protected person, if there is no successor, to the successor guardian or conservator, or to the personal representative of the protected person's estate.

(5) Report forms. Subject to the requirements of Paragraph (6):

(5)(A) forms substantially conforming to the Judicial Council-approved forms are acceptable for content and format;

(5)(B) a corporate fiduciary may file its internal report or accounting; and

(5)(C) if the protected person's estate is limited to a federal or state program requiring an

annual accounting, the fiduciary may file a copy of that accounting.

(6) Information required in reports, cover sheet, and service.

(6)(A) The annual report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period. Compliance with Paragraph (54) is presumed sufficient, but the court may direct that a report or accounting be prepared with content and format as it deems necessary.

(6)(B) The annual report and annual accounting must include the Judicial Council-approved Order on Review of Guardian or Conservator Report ("Order on Review"), which must be filed as a proposed document.

(6)(C) The guardian, conservator, or both must serve a copy of the report, inventory, and accounting under Rule 5 of the Utah Rules of Civil Procedure on all interested persons. The annual report and annual accounting must include the following language at the top right corner of the first page, in bold type: **You have the right to object to the report or accounting within 28 days of service. If you do not object within that time, your objection may be waived.**

(7) Annual status reports.

(7)(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment. The status report must be in substantially the same form as the status report form approved by the Utah Judicial Council, including the required attachments. The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code Section 75-5-313. The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

(7)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it.

(7)(C) If there is no conservator, the guardian must file the inventory and accounting required of a conservator under Utah Code Section 75-5-312.

(8) Inventory.

(8)(A) Within 90 days after the appointment, the conservator must file with the appointing court the inventory required by Utah Code Section 75-5-418. The inventory must be in substantially the same form as the inventory form approved by the Utah Judicial Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

(8)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it.

(9) Annual accounting.

(9)(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment. **The accounting must be in substantially the same form as the accounting form approved by the Utah Judicial Council, including the required attachments.** The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code Section 75-5-403. The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(9)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it.

(10) Final accounting.

(10)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment.

(10)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it.

(11) Objections.

(11)(A) If an interested person objects to a report or accounting, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report or accounting. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit in the court record.

(11)(B) The objection must specify in writing the entries to which the person objects and state the reasons for the objection.

(11)(C) An objection to a report or accounting may not contain a request to remove or substitute the guardian or conservator. Any request for removal or substitution of the guardian or conservator must be filed as a separate petition consistent with Utah Code Section 75-5-307 or 75-5-415.

(11)(D) If an objection is filed, the court must conduct a hearing unless the court determines that a hearing is not necessary. If the court determines that a hearing is not necessary, the

172 court must issue a minute entry or order stating why a hearing is not necessary.

173
174 (11)(E) At the hearing, the court may require the guardian or conservator to supplement or
175 amend the report or accounting if the court determines there is good cause for the objection.

176
177 (11)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court
178 may deny the objection and approve the report or accounting.

179
180 (12) **Waiver.** If an interested person does not object to a report or accounting within 28 days of
181 service, the interested person waives any objection unless:

182 (12)(A) the objection relates to matters not fairly disclosed by the report or accounting; or

183
184 (12)(B) the time for objection is extended by the court under Rule 6 of the Utah Rules of Civil
185 Procedure. If the request for an extension is made before the time has run, the court may
186 extend the time for good cause. If the request is made after the time has run, the court may
187 extend for excusable neglect.

188
189 (13) **Report approval.**

190 (13)(A) **Approval.** The court must examine and approve reports as required by Utah Code
191 sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the
192 court's knowledge notice has been given to every person entitled to notice, no objection has
193 been received, the report meets the requirements set forth by the report form, and the court
194 has not requested additional information or scheduled a hearing. Such approval does not
195 foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an
196 appeal time.

197
198 (13)(B) **Notice to interested persons.** When a court approves a report, the court must note
199 that approval on the Judicial Council-approved Order on Review and place the Order on
200 Review in the case file. When a court does not approve a report, the court must indicate on
201 the Order on Review, or in an order, the reasons for non-approval, any additional actions
202 required, and serve the Order on Review or order on all interested persons entitled to notice.

203
204 (14) **Report on a minor.** Under Utah Code Section 75-5-209, a person interested in the welfare
205 of a minor may petition the court for a report from the guardian on the minor's welfare or the
206 minor's estate. If the court orders a report from the guardian, the status report must be in
207 substantially the same form as the status report form for guardianships of adults approved by the
208 Utah Judicial Council, including the required attachments.

209
210 *Effective November 1, 2022*

TAB 5

CJA 1-201. Membership – Election

CJA 1-302. Membership - Officers - Secretariat

Notes: There appears to be a conflict in the rules regarding Council members' ability to serve simultaneously on boards of judges and rule 1-201 needs to be updated to reflect the membership exception for the Standing Committee on Judicial Fairness and Accountability. There is a difference in practice and preference amongst the various boards of judges.

CJA 1-201(7): "Council members *shall not* be eligible to serve as voting members of a Board of Judges of a trial court or to serve as members of the standing committees of the Council."

CJA 1-302(2): "A member of a Board *may also serve* as a member of the Council."

CJA 1-205(1)(C): "*Except for* the Committee on Judicial Fairness and Accountability, council members may not serve, participate or vote on standing committees."

Each respective board of judges has their own rule and preference regarding membership. If the appellate court is exempt from 1-201(7) ("of a trial court") and Council members may be non-voting board members, each of the board rules are in compliance with 1-201(7) and do not need to be amended.

5-101 (appellate): (3) "The Chief Justice of the Supreme Court and the Presiding Judge of the Court of Appeals shall alternate as the Chair and Vice Chair of the Board..." (4)(B) "All members of the Board have the right to vote."

6-101 (district): The rule is silent on Council membership, but the BDCJ reported that the overwhelming majority does not think a judge should serve on the board and Council concurrently.

While there could be some communication benefits to having a judge serve on both, a Council member reports to the Board each month. The scope of the Board and the Council is different. The Board advocates for what they believe is in the best interest of the district court bench and "Council members represent the judicial system as a whole, rather than a particular court, and therefore do not advance parochial interests" (Council Orientation Packet). The District Board thinks separation is best to avoid conflict or the appearance of divided loyalties when making decisions. Also noted is that participation on the Board and the Council are big commitments. Having one judge serve on both is probably too much to add to a full time job. Rural judges voiced that there are enough rural judges to serve on the Board and Council without having one judge serve on both.

7-101 (juvenile): The rule is silent on Council membership, but does reference rule 1-201: (6)(B) "Timing of elections, and the process for filling vacancies, shall be conducted pursuant to Rule 1-201."

Currently, Council representatives attend board meetings as non-voting members. However, the Board does not think it would be a conflict for a judge to be a voting member of both the Board and the Council simultaneously. The Board believes that a judge can be mindful about the different roles they would serve with each appointment and act accordingly. Given the time commitments and the limited number of juvenile court judges, the Board prefers flexibility, leaving the decision up to each individual judge.

9-101 (justice): (1) "...comprised of the chair, six at-large members, and the three Council representatives." (7) "All members, except the three Council representatives, are voting members."

Since before Jim Peters' time, the Board of Justice Court Judges has included the three justice court judges who serve on the Judicial Council. To comply with 1-201(7), they are not allowed to vote. I think the entire Board would agree that it's a brilliant idea to include them, as it bridges a gap that would otherwise exist between the Board and the Council.

My recommendation is to make the language in 1-302(2) consistent with 1-201(7) to avoid any appearance of conflict.

1 **Rule 1-201. Judicial Council Membership - Election.**

2
3 **Intent:**

4 To establish the manner of election of Council members as authorized by statute.

5
6 To establish the procedure for filling a vacancy on the Council as authorized by statute.

7
8 **Applicability:**

9 This rule shall apply to all elected members of the Council. This rule shall not apply to the Chief
10 Justice of the Supreme Court.

11
12 This rule shall apply to the Boards of Judges and the Board of Commissioners of the Utah State
13 Bar.

14
15 As used in this rule, unless the context indicates otherwise, "Board" includes the Boards of
16 Judges and the Board of Commissioners of the Utah State Bar.

17
18 **Statement of the Rule:**

19 (1) The composition of the Council, the term of office of elected Council members, and the
20 electorate of elected Council members shall be as prescribed by law.

21
22 **(2) Term.** The term of office of all elected Council members shall begin with the Council meeting
23 immediately following the annual judicial conference. No person shall serve on the Judicial
24 Council for more than two consecutive three-year terms plus the remainder of any unexpired
25 portion of a term.

26
27 **(2) Election.** Election of judicial members of the Council shall take place during the annual
28 judicial conference at the business meeting of each respective court. Election of the
29 representative of the Utah State Bar shall take place at a regularly scheduled meeting of the
30 Board of Commissioners.

31
32 **(3) Vacancies**

33
34 (3)(A) **Judges.** If a vacancy exists for a judicial member of the Council who represents a
35 trial court or justice court, the Board for the court represented by that seat shall appoint a
36 judge to serve on the Council until the next judicial conference. At such conference, the
37 judges shall elect a member to the Council to serve for the unexpired portion of the
38 original term. If a judicial member of the Council who represents an appellate court is
39 unable to complete a term of office, the members of that court shall appoint a judge to
40 serve on the Council until the expiration of the vacated term.

41
42 (3)(B) **Bar representative.** If the representative of the Utah State Bar is unable to
43 complete a term of office, the Board of Commissioners shall elect a member or ex officio

member of the Board of Commissioners to serve for the unexpired portion of the original term.

~~(3)(C) No person shall serve on the Judicial Council for more than two consecutive three-year terms plus the remainder of any unexpired portion of a term.~~

(4) **Board nomination procedures.** The Boards shall develop procedures for the nomination and election of Council members and shall certify to the Council the names of the members elected. The Boards shall give due regard to geographic representation, security of the election, timely publication of Council vacancies or expired terms, and ease of administration.

(5) **Meeting attendance.** When a judicial member of the Council is unable to attend a Council meeting, that member may designate a judge from the same level of court to attend the Council meeting and observe the proceedings. When the representative of the Utah State Bar is unable to attend a Council meeting, that member may designate a member or ex officio member of the Board of Commissioners to attend the Council meeting and observe the proceedings. The designee shall be provided with a copy of the Council agenda and other meeting materials, and may attend the open and closed sessions of the meeting. The designee may participate in the general discussion of agenda items but may not make motions or vote on Council issues.

(6) **Expenses.** Council members or their designated substitutes may be reimbursed for actual and necessary expenses incurred in the execution of their duties as Council members.

(7) **Board membership.** Council members ~~shall not be eligible to~~may not serve as voting members of a Board of Judges of a trial court or to serve as members of the standing committees of the Council, except for the Standing Committee on Judicial Fairness and Accountability. The representative of the Utah State Bar may vote at meetings of the Board of Commissioners if permitted to vote under rules governing the conduct of the Board of Commissioners.

Effective: ~~June 22~~November 1, 2022~~9~~

Rule 1-302. Board of Judges Membership - Officers - Secretariat.

Intent:

To delegate the authority for the election of members and leaders of the various Boards to the Boards themselves or to the judges of the respective courts.

To minimize the costs of organization and administration of the Boards by coordinating the election of members of all Boards.

Applicability:

This rule shall apply to all Boards of Judges, except the Board of Senior Judges.

Statement of the Rule:

(1) **Term – Election.** The judges of the respective courts shall determine an appropriate term of office for the members of their Board. Election to the Board of a court of record shall take place at the annual judicial conference. Election to the Board of Justice Court Judges shall take place at the annual spring training conference. After an election or upon any change in membership, each Board shall certify to the Council the names of its members.

(2) **Membership.** Judicial Council members may not serve as voting members of a Board of Judges of a trial court. ~~A member of a Board may also serve as a member of the Council.~~

(3) **Chair – Officers.** Each Board shall establish the position of chair of the Board and other positions of leadership as the Board deems appropriate. Each Board shall establish the term and manner of election to such offices. Each Board shall certify to the Council the names of the chair and other officers of the Board.

(4) **Secretariat.** The Administrative Office shall serve as secretariat to the Boards.

(5) **Expenses.** Members of the Boards may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as members.

Effective: November 1, ~~1998~~2022

TAB 6

CJA 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case

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

Notes: The proposed amendments are intended to resolve two reoccurring issues associated with records access requests and to adopt recent legislative amendments to [63G-2-203\(5\)\(c\)](#) in [H.B. 96](#). Pursuant to [78A-2-301\(1\)\(bb\)](#), “The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under [GRAMA].”

Rule 4-202.04 (lines 23, 100-101): Requesters denied access to non-public court records that they are not authorized to access under [4-202.03](#) have interpreted the “may” in line 23 and the governing rules provision in lines 100-101 to mean that they are not required to file a motion with the court, but rather can appeal a clerk of court’s denial to the State Court Administrator and Management Committee under [4-202.07](#). Because this rule only applies to court records *associated with a case*, a motion is the appropriate procedure under those circumstances. The proposed amendment would provide clarity.

Rule 4-202.08

- (lines 56-62): Consistent with H.B. 96 and [63G-2-203\(5\)\(c\)](#), the proposed amendment would allow the court to charge requesters for the first 15 minutes of personnel time if the person has submitted a separate request within the 10-day period immediately prior to the date of the new request, provided the person is not a Utah media representative.
- (line 112): Changes “impecunious” to “indigent” to be consistent with the code and other court rules.
- (lines 116-118): Our clerks have at times been inundated with repeat requests from the same individual for the same record. I believe the proposed amendment is a good balance. Indigent individuals would be allowed 1 free copy of each record, after which they would be required to pay the standard rates. Exceptions can be made by court order or by the State Court Administrator. It is my understanding that clerks have the ability to make a note in our system when a copy of a record has been provided to a particular individual.

Rule 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case.

Intent:

To establish the process for accessing a court record associated with a case.

Applicability:

This rule applies to court records associated with a case.

Statement of the Rule:

(1) **Written request.** A request to access a public court record shall be presented in writing to the clerk of the court unless the clerk waives the requirement. A request to access a non-public court record to which a person is authorized access shall be presented in writing to the clerk of the court. A written request shall contain the requester's name, mailing address, daytime telephone number and a description of the record requested. If the record is a non-public record, the person making the request shall present identification.

(2) Motion or petition to access record.

(2)(A) If a written request to access a court record is denied by the clerk of court, the person making the request may file a motion to access the record.

(2)(B) A person not authorized to access a non-public court record pursuant to rule 4-202.03 must file a motion to access the record. If the court allows access, the court may impose any reasonable conditions to protect the interests favoring closure.

(3) Motion or petition to reclassify record.

(3)(A) If the court record is associated with a case over which the court has jurisdiction, a person with an interest in a court record may file a motion to classify the record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record. The court shall deny access to the record until the court enters an order.

(3)(B) If the court record is associated with a case over which the court no longer has jurisdiction, a person with an interest in the record may file a petition to classify the record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record. The court shall deny access to the record until the court enters an order.

(3)(C) As appropriate for the nature of the case with which the record is associated, the motion or petition shall be filed and proceedings shall be conducted under the rules of civil procedure, criminal procedure, juvenile procedure, or appellate procedure. The

person filing the motion or petition shall serve any representative of the press who has requested notice in the case. The court shall conduct a closure hearing when a motion or petition to close a record is contested, when the press has requested notice of closure motions or petitions in the particular case, or when the court decides public interest in the record warrants a hearing.

(4) **Classify – Redact.** The court may classify the record as private, protected, ~~or~~ sealed, safeguarded, juvenile court legal, or juvenile court social, or redact information from the record if the record or information:

(4)(A) is classified as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social under Rule 4-202.02;

(4)(B) is classified as private, controlled, or protected by a governmental entity and shared with the court under the Government Records Access and Management Act;

(4)(C) is a record regarding the character or competence of an individual; or

(4)(D) is a record containing information the disclosure of which constitutes an unwarranted invasion of personal privacy.

~~(5) As appropriate for the nature of the case with which the record is associated, the motion or petition shall be filed and proceedings shall be conducted under the rules of civil procedure, criminal procedure, juvenile procedure, or appellate procedure. The person filing the motion or petition shall serve any representative of the press who has requested notice in the case. The court shall conduct a closure hearing when a motion or petition to close a record is contested, when the press has requested notice of closure motions or petitions in the particular case, or when the court decides public interest in the record warrants a hearing.~~

(56) **Factors and findings.** In deciding whether to allow access to a court record or whether to classify a court record as private, protected, or sealed, safeguarded, juvenile court legal, or juvenile court social, or to redact information from the record, the court may consider any relevant factor, interest, or policy, including but not limited to the interests described in Rule 4-202. In ruling on a motion or petition under this rule the court shall:

(56)(A) make findings and conclusions about specific records;

(56)(B) identify and balance the interests favoring opening and closing the record; and

(56)(C) if the record is ordered closed, determine there are no reasonable alternatives to closure sufficient to protect the interests favoring closure.

(67)(A) **Appellate briefs.** If an appellate brief is sealed, the clerk of the court shall seal the brief under Rule 4-205. If an appellate brief is classified as private, protected, safeguarded, juvenile

88 court legal, or juvenile court social, the clerk of the court shall allow access only to persons
89 authorized by Rule 4-202.03. If the court orders information redacted from the brief, the clerk of
90 the court shall remove the information and allow public access to the edited brief.

91
92 (7)(B) **State Law Library.** If the petitioner serves the order on the director of the State Law
93 Library, the director shall comply with the order in the same manner as the clerk of the court
94 under paragraph (67)(A).

95
96 (87)(C) **Compliance.** Unless otherwise ordered by the court, the order is binding only on the
97 court, the parties to the motion or petition, and the state law library. Compliance with the order
98 by any other person is voluntary.

99
100 (98) **Governing rules.** A request under this rule to access a public record or a non-public record
101 to which the requester is authorized access is also governed ~~also~~ by Rule 4-202.06. A motion or
102 petition under this rule is not governed by Rule 4-202.06 or Rule 4-202.07.

103
104 *Effective: November-May 1, 2022~~16~~*

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

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

Applicability:

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

Statement of the Rule:

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

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

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

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

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

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

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

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

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

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

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

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

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

(65) Personnel time.

(6)(A) Personnel time to copy the record of a court proceeding is included in the copy fee. For other matters, there is no fee for the first 15 minutes of personnel time, unless the person who submits the request:

(6)(A)(i) is not a Utah media representative; and

(6)(A)(ii) has submitted a separate records request within the 10-day period immediately prior to the date of the request to which the court or office is responding.

(6)(B) The fee for time beyond the first 15 minutes is charged in 15 minute increments for any part thereof. The fee for personnel time is charged at the following rates for the least expensive group capable of providing the record, information, or service:

(65)(BA)(i) clerical assistant: \$15.00 per hour;

(65)(B)(ii) technician: \$22.00 per hour;

(65)(BG)(iii) senior clerical: \$21.00 per hour

(65)(BD)(iv) programmer/analyst: \$32.00 per hour;

(65)(BE)(v) manager: \$37.00 per hour; and

(65)(BF)(vi) consultant: actual cost as billed by the consultant.

(76) Public online services.

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

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

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

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

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

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

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

(98) Waiver of fees.

(98)(A) Subject to (9)(B), fFees established by this rule, other than fees for public online services, shall be waived for:

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

(98)(A)(ii) any person who is the subject of the record and who is impecuniousindigent; and

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

(9)(B) Individuals who qualify for a fee waiver under (9)(A)(ii) are entitled to one free copy of the record requested, after which the fees established under this rule apply unless otherwise waived by court order or the state court administrator.

(98)(CB) Fees for public online services shall be waived for:

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

(98)(CB)(ii) any government entity of Utah or its political subdivisions;

(98)(CB)(iii) the Utah State Bar;

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|131 (~~98~~)(~~C~~B)(iv) public defenders for searches performed in connection with their
132 duties as public defenders; and

133

|134 (~~98~~)(~~C~~B)(v) any person or organization who the XChange administrator
135 determines offers significant legal services to a substantial portion of the public at
136 no charge.

137

|138 *Effective: November 1, 20~~22~~~~02~~*

TAB 7

CJA 1-204. Executive Committees

Notes: The proposed amendments create court-level core teams and subcommittees of PP&T to assist the Committee in accomplishing its new technology responsibilities.

Rule 1-204. Executive committees.**Intent:**

- To establish executive committees of the Council.
- To identify the responsibility and authority of the executive committees.
- To identify the membership and composition of the executive committees.
- To establish procedures for executive committee meetings.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

(1) **Executive Committees.** The following executive committees of the Council are hereby established:

- (1)(a) the Management Committee;
- (1)(b) the Policy, Planning, and Technology Committee;
- (1)(c) the Liaison Committee; and
- (1)(d) the Budget and Fiscal Management Committee.

(2) **Management Committee.** The Management Committee shall be comprised of at least four Council members, one of whom shall be the Presiding Officer of the Council. Three Committee members constitute a quorum. The Presiding Officer of the Council or Presiding Officer's designee shall serve as the Chair. When at least three members concur, the Management Committee is authorized to act on behalf of the entire Council when the Council is not in session and to act on any matter specifically delegated to the Management Committee by the Council. The Management Committee is responsible for managing the agenda of the Council consistently with Rule 2-102 of this Code. The Management Committee is responsible for deciding procurement protest appeals.

(3) **Policy, Planning, and Technology Committee.** The Policy, Planning, and Technology Committee shall recommend to the Council periodic and long term planning efforts as necessary for the efficient administration of justice, and shall research and make recommendations regarding any matter referred by the Council. The Committee shall recommend to the Council new and amended rules for the Code of Judicial Administration, new and amended policies for the Human Resource Policies and Procedures Manual, pursuant to Rule 3-402, and new or amended technology policies and priorities.

(3)(A) **Technology Core Teams.** Each court level shall establish a Technology Core Team to review and prioritize requests impacting technology associated with the court level. Core Teams may consist of:

Commented [KW1]: Alternative language: "Shall be comprised of at least one individual in each of the following positions:" Should we assign a specific number or allow them to decide what's best? These teams could quickly become unwieldy. Who is staffing/chairing?

(3)(A)(i) Appellate Court Core Team:

(3)(A)(i)(a) Appellate Court Administrator;

(3)(A)(i)(b) Clerks of Court;

(3)(A)(i)(c) Coordinator; and

(3)(A)(i)(d) IT staff.

Commented [KW2]: No judge?

Commented [KW3]: Coordinator of what? Appellate court coordinator? Is that a position in the court?

(3)(A)(ii) District/Justice Court Core Team:

(3)(A)(ii)(a) District Court Administrator or designee(s);

(3)(A)(ii)(b) Justice Court Administrator or designee(s);

(3)(A)(ii)(c) Clerk of Court;

(3)(A)(ii)(d) Trial Court Executive;

(3)(A)(ii)(e) district court judge;

(3)(A)(ii)(f) justice court judge;

(3)(A)(ii)(g) Team Manager;

(3)(A)(ii)(h) Case Manager;

(3)(A)(ii)(i) Judicial Assistant;

(3)(A)(ii)(j) Training Coordinator;

(3)(A)(ii)(k) IT staff; and

(3)(A)(ii)(l) local justice court administrator.

(3)(A)(iii) Juvenile Court Core Team:

(3)(A)(iii)(a) Juvenile Court Administrator or designee(s);

(3)(A)(iii)(b) Clerk of Court;

(3)(A)(iii)(c) Trial Court Executive;

(3)(A)(iii)(d) Chief Probation Officer;

(3)(A)(iii)(e) Probation Supervisor;

(3)(A)(iii)(f) Probation Officer;

(3)(A)(iii)(g) Team Manager;

(3)(A)(iii)(h) Case Manager;

(3)(A)(iii)(i) Judicial Assistant;

(3)(A)(iii)(j) Training Coordinator; and

Commented [KW4]: No judge?

(3)(A)(iii)(k) IT staff.

(3)(B) Technology Prioritization Subcommittee. A Technology Prioritization Subcommittee is hereby established. Members shall be designated by each Core Team and shall consist of no more than two members from each Team. Each Core Team may submit technology requests to the Technology Prioritization Subcommittee. The prioritization subcommittee shall come to an agreement on the percentage of work allotted for each court level. The percentage is only relevant to development staff that are 100% paid by the general fund. Technology requests from Core Teams should fall within the work allotted to that court level for that year, unless the work requested is required by legislative or rule changes. The prioritization subcommittee may review and consider exceptions to this standard. The prioritization subcommittee will make recommendations to the Policy, Planning, and Technology Committee.

Commented [KW5]: Alternative language:
“...development staff compensated entirely by general funds.”

(3)(C) Technology Advisory Subcommittee. A Technology Advisory Subcommittee is hereby established. The advisory subcommittee shall be available to the Chief Information Officer, Core Teams, Technology Prioritization Subcommittee, and the Policy, Planning, and Technology Committee to provide feedback and recommendations on new technology, technological processes, and technology requests. The advisory subcommittee shall consist of:

(3)(C)(i) one district court judge;

(3)(C)(ii) one juvenile court judge;

(3)(C)(iii) one appellate court judge;

(3)(C)(iv) one justice court judge;

(3)(C)(v) one district court Trial Court Executive

(3)(C)(vi) one juvenile court Trial Court Executive;

(3)(C)(vii) one Clerk of Court;

(3)(C)(viii) one local justice court administrator;

(3)(C)(ix) each court level administrator or their designee(s);

(3)(C)(x) one Chief Probation Officer;

(3)(C)(xi) the Chief Information Officer or designee;

(3)(C)(xii) the Court Security Director; and

(3)(C)(xiii) one current or former member of the Policy, Planning and Technology Committee.

(4) Liaison Committee. The Liaison Committee shall recommend to the Council legislation to be sponsored by the Council. The committee shall review legislation affecting the authority, jurisdiction, organization or administration of the judiciary. When the exigencies of the legislative

process preclude full discussion of the issues by the Council, the Committee may endorse or oppose the legislation, take no position or offer amendments on behalf of the Council.

(5) **Budget and Fiscal Management Committee.** The Budget and Fiscal Management Committee shall review court budget proposals, recommend fiscal priorities and the allocation of funds, and make recommendations to the Council regarding budget management and budget development in accordance with Rule 3-406.

(6) **Members.** Members of the executive committees must be members of the Council. Each executive committee shall consist of at least three members appointed by the Council to serve at its pleasure. The members of the Policy, Planning, and Technology Committee, the Budget and Fiscal Management Committee, and the Liaison Committee shall elect their respective chairs on a schedule deemed appropriate by each Committee. Chairs must be members of the Council.

(7) **Meetings and Judicial Council Reports.** Each committee shall meet as often as necessary to perform its responsibilities, but a minimum of four times per year. Each committee shall report to the Council as necessary.

(8) **Staff.** The Administrative Office shall provide staff support to the executive committees.

Effective: ~~May 23~~November 1, 2022