

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING, & TECHNOLOGY COMMITTEE
MEETING AGENDA**
May 5, 2023 – 9:00 a.m. to 12:00 p.m.
Webex

9:00	Welcome and approval of minutes	Action	Tab 1	Judge Chiara
9:05	<u>HR Policies:</u> <ul style="list-style-type: none"> • Career Service Employment <ul style="list-style-type: none"> ○ Definitions ○ HR 4-5 ○ HR 4-14 ○ HR 5-1 ○ HR 5-2 ○ HR 6-9 ○ HR 10-1 ○ HR 11-2 ○ HR 12-3 ○ HR 17-1 • Background Checks (HR 4-15) • Sick Leave (HR 7-4) • Bereavement Leave (HR 7-9) • Compensatory Leave Payouts (HR 8-5) • Acceptable use of IT resources <ul style="list-style-type: none"> ○ HR 8-2(3)(c) ○ HR 9-15 • Written warnings and grievance process <ul style="list-style-type: none"> ○ HR 10-3 ○ HR 17-1 • Volunteer programs (HR 13-1) 	Action	Tab 2	Bart Olsen Jeremy Marsh
11:00	Technology report/proposals	Discussion		Brody Arishita
11:50	Old Business/New Business			
12:00	Adjourn			

2023 Meetings:

June 2, 2023	October 6, 2023
July 7, 2023	November 3, 2023 (all day)
August 4, 2023	December 1, 2023
September 1, 2023	

TAB 1

Minutes

April 7, 2023

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING and TECHNOLOGY COMMITTEE
MEETING MINUTES**

Webex video conferencing
April 7, 2023: 12 pm

DRAFT

MEMBERS:

PRESENT

EXCUSED

Judge Samuel Chiara, <i>Chair</i>	•	
Judge Suchada Bazzelle		•
Judge Augustus Chin	•	
Judge Michael DiReda	•	
Judge James Gardner	•	

GUESTS:

Keri Sargent
Nathanael Player
Tucker Samuelsen
Meredith Mannenbach
Allison Barger
Shonna Thomas
Stacy Haacke

STAFF:

Keisa Williams
Brody Arishita
Minhvan Brimhall

(1) Welcome and approval of minutes:

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the March 3, 2023 meeting. With no changes, Judge Gardner moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

(2) CJA 4-202.02. Records classification:

The proposed amendments update statutory references (lines 176, 206, 211, 241, and 425) and make three substantive changes.

Court Commissioner Complaint records (lines 308-309):

Under [CJA 3-201.02](#), the Court Commissioner Conduct Committee reviews and investigates conduct complaints against court commissioners. The process mirrors the Judicial Conduct Commission process, with the Judicial Council acting in a similar role to the Supreme Court. In practice, CCCC records are treated as confidential, but subsection (1)(E) refers to rule 4-202.02. Currently, CCCC records are not classified in 4-202.02, making them public by default under 4-202.02(1). The proposed amendment would classify CCCC records as “private,” except for public censures by the Judicial Council.

Safeguarded records (lines 434-436):

A petitioner in a protective order or stalking injunction case may request that their contact information be safeguarded under paragraph (8)(A). Currently, the only way for those petitioners to also safeguard their contact information in domestic cases is by filing a motion under [CJA 4-202.04](#). The proposed amendment would safeguard contact information in domestic cases “upon request,” if the individual’s contact information has been safeguarded in a protective order or stalking injunction action or in the cases listed under (8)(B).

Proposed amendments to the safeguarded request form (attached) would allow petitioners to submit their (8)(C) requests using the same method as (8)(A) and (8)(B) requests, avoiding confusion and the expense of filing a 4-202.04 motion.

Name / sex designation changes (lines 191-197 and 260-261):

The proposed amendments are in response to [S.B. 93](#) (effective March 23rd), a bill creating new statutory provisions to govern the process for changing a sex designation on a birth certificate, with special provisions for minors (beginning at line 175 in the bill). Currently, court records associated with sex designation changes are public, unless otherwise ordered. Most often, sex designation changes are made in conjunction with a name change. Name change records are public, with notice and “open court” provisions found in Section [42-1-2](#) (unchanged in S.B. 93). The bill specifies that the court must “close the hearing on a petition for a sex designation change” (for an unemancipated child at least 15 and 1/2 years old), but does not mention the classification of other records in those cases.

The proposed amendments would classify:

1. sex designation records for both minors and adults as “private;”
2. name change records for both minors and adults as “public,” and
3. records in cases involving both a name change and a sex designation change, for minors and adults, as “private” (with a few exceptions).

There is some question as to whether #3 is inconsistent with the code, or at least, would make it difficult for the court to meet the “upon proof in open court” requirement in 42-1-2 for the name change portion of the case – one purpose for which has been to protect against fraud.

At the same time, vulnerable populations face a significant risk of harm should their sex designation change be made public. Rule [4-202](#) recognizes the delicate balance courts must strike by providing a list of interests served by both open and closed court records. And under Rule [4-202.04\(6\)](#), in deciding whether to classify a record as non-public, judges may consider “any relevant factor, interest, or policy, including but not limited to the interests described in rule 4-202...”

Following a discussion, the committee determined that applying a “private” classification to cases involving both name and sex designation changes is not inconsistent with the code. The committee made minor edits for consistency in language throughout the rule.

With no further discussion, Judge Gardner moved to send CJA 4-202.02, as amended, to the Judicial Council with a recommendation that it be approved as final on an expedited basis with an effective date of April 24, 2023, followed by a 45-day comment period. Judge DiReda seconded the motion. The motion passed unanimously.

(3) CJA 4-202.03. Records access:

CJA 4-202.05. Request to access an administrative record; research; request to classify an administrative record; request to create an index.

The proposed amendments align the rules with Sections [77-40a-403\(2\)\(b\)](#) and [77-40a-404](#), identifying individuals and entities who may access expunged records. Other amendments are non-substantive and intended to streamline the rules.

The committee noted that the rule is more restrictive than the code. Under the code, expunged records “may be released or viewed by” certain individuals ([77-40a-404](#)) and authorized individuals and entities may “receive information contained in expunged records” ([77-40a-403](#)). The rule limits access to certified copies of the expungement order and the case history. Ms. Williams recommended keeping the rule more restrictive for now, in light of the sensitivity of expunged records. It’s unclear what effect this change may have on requests and access. Individuals/entities may request more than just certified copies and case histories by making a formal records

request, at which point the reviewing custodian can take a more careful look at whether the individual/entity truly does qualify under the code. That recommendation may change once we have a better idea of how this works in practice.

Following a discussion, the committee was comfortable keeping the more restrictive language in the rule and made minor, non-substantive edits throughout.

With no further discussion, Judge Gardner moved to forward CJA 4-202.03 and 4-202.05 to the Judicial Council with a recommendation that the rules be published for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

(4) CJA 4-404. Jury selection and service

The proposed amendments add the option to email juror qualification forms and summonses to prospective jurors. If a qualification form is returned by the email provider as “undeliverable,” the form would then be mailed. Emailing documents would save processing time and reduce mailing costs. In the 3rd district alone, 10,000 jury qualification forms are sent each month.

Following a discussion, the committee made the following changes:

- *Paragraph (6)(C)(iii) changed to begin: “The summons shall be . . .”.*
- *Paragraph (6)(C)(ii) changed to: “The summons may be served by first class mail or email to the address provided on the juror qualification form or by telephone.”*

With no further discussion, Judge Gardner moved to forward rule CJA 4-404 to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

(5) CJA 6-501. Reporting requirements for guardians and conservators:

At its January meeting, PP&T considered the attached public comments regarding rule 6-501. Following discussion, PP&T sent the rule back to the Probate Subcommittee, asking for a review of the public comments and the Order on Review court form.

The commenters questioned whether there should be an exception to using the court forms for corporate fiduciaries. The Probate Subcommittee disagrees, but recognizes a need to make the filing requirements and use of forms more clear. Specifically, the proposed amendments incorporate what was paragraph (5) into paragraph (6) and make minor language changes to provide clarity throughout the rule as it relates to filing requirements. The changes made to paragraph (2) mirror the language found in the statute, as the term “licensed” is not found in the statute.

The committee made minor edits to the rule for consistency and changed “Utah Judicial Council” to “Judicial Council” or “Council” as those terms are already defined in the rule. Following a discussion of the public comments, the committee made no additional amendments.

With no further discussion, Judge Gardner moved to forward rule CJA 6-501, as amended, to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Chin seconded the motion. The motion passed unanimously.

Technology report/proposals:

The Technology Advisory Subcommittee met and has agreed on a standard audio form to be used statewide, as well as a standard Webex form. Mr. Arishita hopes to be able to provide an overview of the form to Policy, Planning, and Technology within the next two months. At its next meeting, the advisory subcommittee will be working with Karl Sweeney to discuss increasing various fees outlined in rule. Todd Eaton is working with Bryson King on amendments to the records retention rule. The subcommittee also plans to create standards for device usage and bandwidth filtering.

Old Business/New Business: None

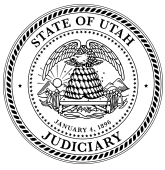
Keri Sargent provided a follow-up report on filing fee collection from pro se email filings. Judicial assistants report that pro se litigants are better at paying filing fees. They have a harder time collecting fee payments from attorneys.

Adjourn: With no further items for discussion, Judge Chin moved to adjourn the meeting. Judge Gardner seconded the motion. The motion was approved. The meeting adjourned at 1:01 PM. The next meeting will be held on May 5, 2023 at 9 AM via Webex video conferencing.

TAB 2

Human Resources Policies

Notes: See attached memo



Memorandum

From: Bart Olsen, Director of HR, Administrative Office of the Courts
Keisa Williams, General Counsel, Administrative Office of the Courts
[Human Resources Policy Review Committee](#)

To: Policy, Planning & Technology Committee

Re: Summary of draft HR Policy amendments

This memorandum summarizes the context and intended impacts of proposed amendments.

BACKGROUND

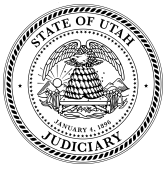
Consistent with [Rule 3-402\(5\)](#), the Human Resources Policy Review Committee (HRPRC) meets regularly to review suggestions for policy amendments and assist the Policy, Planning & Technology Committee and the Judicial Council to keep policies current and effective.

This memo briefly summarizes each proposed HR Policy amendment and the accompanying reasoning.

CAREER SERVICE EMPLOYMENT LANGUAGE

Last year, the Council approved a proposed policy amendment from the HRPRC ending the practice of creating and filling “career service” positions effective July 1, 2022. A “probationary period” of 12 months needed to remain in place and properly reflected in policy for anyone hired into a career service position prior to and through June 30, 2022. New hires after that date do not have a probationary period which was only required in order to obtain career service status. Therefore, cleanup language will be needed throughout HR Policy effective July 1, 2023, to align with the move away from career service employment. These proposed amendments remove the terms “probationary” and “probation period” throughout HR policy and, where appropriate, make disclaimers or clarifying language to distinguish at-will and career service employees.

The HRPRC also proposed amendments to all instances of the term “career service exempt” with “at-will” to reduce confusion between “career service exempt” and “FLSA exempt.”



The Utah Judicial Branch Department of Human Resources



Although the proposed amendments would remove “probation” and “probationary period” from policy, the HRP RC still recommends a practice of closer supervision and more detailed performance evaluation for new hires during their first year of employment nearly identical to the former practice during a probationary period. To avoid confusion and distinguish between “probationary” employees who become eligible for career service status, the term “introductory period” is proposed in policy to help management adopt consistent practices in evaluating new at-will employees.

Policy: Definitions, HR04-5, HR04-14, HR05-1, HR05-2, HR06-9, HR10-1, HR11-2, HR12-3, HR17-1

BACKGROUND CHECKS

For several years there have been questions on using internal court systems such as CARE or CORIS to help screen applicants. This amendment will clarify that the only background check system we use will be through the Utah Bureau of Criminal Investigation and none of our internal case management or records retention systems will be used to determine candidate viability.

Policy: HR04-15

SICK LEAVE

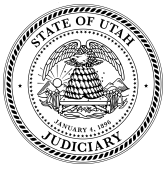
Mental health and wellness have become critical components of workplace culture, and the current verbiage authorizing the conditions for which management may grant approval for sick leave appears to disallow authorization for mental health care purposes when using qualifiers “preventative” and “dental” with health care. After much discussion, including input from the State and Deputy State Court Administrators, the proposed amendment clarifies that employees may use sick leave hours for all health care issues, including mental health and wellness.

Policy: HR07-4

BEREAVEMENT LEAVE

Minor adjustments to better organize the policy section and provide more precise instructions to employees and management. No major substantive changes.

Policy: HR07-9



The Utah Judicial Branch Department of Human Resources



COMPENSATORY LEAVE PAYOUTS

Employees eligible for overtime pay under the Fair Labor Standards Act (FLSA) may opt to accrue leave time instead of immediate overtime pay. Currently, HR policy only allows compensatory time payouts when an employee leaves Judicial Branch employment. This proposed amendment enables management the flexibility to approve compensatory time payouts upon request as needed.

Policy: HR08-5

CODE OF CONDUCT: ACCEPTABLE USE OF IT RESOURCES

Since the pandemic, telecommuting has become more standard practice throughout the courts. The Information Technology Department (IT) identified security risks and practical gaps in HR Policy related to telecommuting. HR and IT collaborated to create an updated HR policy aligning with IT best practices and requirements.

Policy: HR08-2(3)(c) and HR09-15

WRITTEN WARNINGS AND GRIEVANCE PROCESS

This amendment fixes an apparent disparity with what is grievable to the Grievance Review Panel. HR10-3 appears to remove written warnings and MOU's from the grievance process entirely. Whereas, HR17-1 states that any item not listed can be grieved up to Level 3 (TCE or AOC Director). This amendment clarifies that written warnings and MOU's can be grieved but only up to Level 3 as outlined in HR17-1.

Policy: HR10-3 and HR17-1

VOLUNTEER PROGRAMS

The Volunteer Programs policy has been in place for many years, in part to support what is required by [UCA §67-20](#) and applies to all state officers and employees (including those of the judicial branch). The act ensures that volunteers are covered under worker's compensation and identifies fees, expenses, and other benefits. This amendment simply cites that code and helps ensure our policy aligns with any future changes to the code.

Policy: HR13-1

Definitions

- (10) **Appointing Authority:** The person or group of persons authorized to make appointments in a district, court, or office.
- (11) **At-Will Employee:** An employee appointed to work at the will of the appointing authority, who may be separated from state employment at any time without just cause in compliance with applicable local and federal labor laws.
- (12) **At-Will Position:** A position exempted from provisions of career service as identified in HR05-3.
- (13) **Break in Service:** A point at which an individual has an official separation date and is no longer employed by the State of Utah.
- (17) **Career Service Employee:** An employee selected via a publicly competitive process and who has successfully completed a probationary period in a career service position.
- (18) **Career Service Exempt Employee:** An employee appointed to work for a period of time, serving at the pleasure of the appointing authority, who may be separated from state employment at any time without just cause.
- (19) **Career Service Exempt Position:** A position exempted from provisions of career service as identified in HR05-3.
- (20) **Career Service Status:** Status granted to employees who successfully complete a probationary period for career service positions.
- (72) **Intern:** An individual working for the courts to fulfill an educational program's on-the-job requirement.
- (73) **Introductory Period:** A period of time considered part of the selection process, identified at the job level, the purpose of which is to allow management to evaluate an employee's ability to perform assigned duties and responsibilities.

(74) **Job:** A group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same salary range is applied to each position in the group.

(104) **Preemployment Drug Test:** A drug test conducted on:

- (a) final applicants who are not current employees;
- (b) final candidates for a highly sensitive position;
- (c) employees who are final candidates for transfer or promotion from a non-highly sensitive position to a highly sensitive position; or
- (d) employees who transfer or are promoted from one highly sensitive position to another highly sensitive position.

~~(105) **Probationary Employee:** An employee hired into a career service position who has not completed the required probationary period for that position.¶~~

~~(106) **Probationary Period:** A period of time considered part of the selection process, identified at the job level, the purpose of which is to allow management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted.¶~~

(107) **Proficiency:** An employee's overall quality of work, productivity, skills demonstrated through work performance and other factors that relate to employee performance or conduct.

HR04-5. Transfer, Reassignment, Promotion, and Reciprocity Agreement.

3) The judicial branch maintains a reciprocity agreement with the Utah Department of Human Resource Management (DHRM) which facilitates an employee's external transfer from one branch of state government to another by providing

continuity of paychecks, health insurance and retirement benefits, eligible leave balances, and leave accrual rates.

a. External Applicants and External Transfers.

- i. Current employees of Utah's Executive or Legislative Branches may apply and compete for any position advertised with the judicial branch, and are considered external applicants. If hired, such employees are considered external transfers.
- ii. Employees applying from other branches of state government shall be subject to all provisions of [HR04](#) governing the filling of positions.
- iii. ~~External transfers to the judicial branch shall begin a new probationary period.~~

b. Benefits for External Transfers.

- i. An external transfer to a benefits eligible position with the judicial branch automatically transfers health insurance benefits through PEHP, leave accrual rate, annual leave balance, and all sick leave balances.
- ii. Compensatory time balances for FLSA non-exempt employee transfers and excess time balances must be paid out prior to the employee's transfer to

HR04-8. Hiring Lists.

1) Management shall evaluate applicants for career service positions and place them on a hiring list based on job, job series, or position related criteria.

a) The hiring list shall include a unique identifier for each applicant to be considered for appointment or conditional appointment to a specific job, job series, or position. ~~the names of applicants to be considered for appointment or conditional appointment to a specific job, job series or position.~~

b) An individual shall be considered an applicant when the individual applies for a particular position identified through a specific recruitment.

c) Hiring lists shall be constructed using the HR-approved recruitment and selection system.

d) ~~Applicants for career service positions shall be evaluated and placed on a hiring list based on job, job series or position related criteria.~~

~~e) All applicants included on a hiring list shall be~~

147 examined with the same examination or
148 examinations.
149

150
151
152
153 **~~HR04-14. Assimilation.~~**

154 ~~←~~

155 ~~An employee assimilated by the state from another government career~~
156 ~~service system to fill a career service position shall receive~~
157 ~~career service status after completing a new probationary period~~
158 ~~if originally selected through a competitive examination process~~
159 ~~judged by the HR Director to be sufficiently similar to the process~~
160 ~~prescribed in [HR04-4.](#)~~

161 ~~¶~~

162 ~~1) Assimilation agreements shall specify whether there are~~
163 ~~employees eligible for reemployment under USERRA in positions~~
164 ~~affected by the agreement.~~

165 ~~¶~~

166 ~~2) An assimilated employee shall accrue leave at the same rate~~
167 ~~as other career service employees with the same seniority.~~
168

169
170
171 **HR04-6. Rehire.**
172

173 1) A former employee shall compete for career service
174 positions through the HR-approved recruitment and
175 selection system and shall serve a new
176 ~~introductory~~probationary period, as designated in the
177 official job description.
178

179 2) Employees rehired under the Phased Retirement Program
180 pursuant to [UCA §49-11-13](#) shall be:

181 a) Classified as "Time-Limited" consistent with
182 [HR04-2](#) for the duration of a phased retirement
183 employment period; and

184 b) Placed at or below the employee's wage at the time
185 of retirement. Employees must not be placed below
186 the minimum of the established salary range of the
187 job.
188
189
190
191
192

193 **HR05-1. Career Service Status.**
194

195 1) Only an employee hired through a competitive, pre-approved
196 HR process and having completed a probationary period
197 defined in the job description ~~is shall~~ be eligible for
198 career service statusappointment to a career service
199 position.
200

201 ~~2) An employee shall complete the probationary period defined~~
202 ~~in the job description prior to receiving career service~~
203 ~~status.~~
204

205 3) Effective July 1, 2022, the judicial branch will no longer
206 create career service positions.

207 a) When a career service position is vacated for any
208 reason, the position shall convert to ~~at-will~~career
209 ~~service exempt~~ before announcing a vacancy, making an
210 appointment, or selecting a candidate through a
211 competitive process as described in [HR04](#) governing
212 provisions of filling positions.

213 b) A vacated career service position may continue to be a
214 career service position only if management initiates a
215 reassignment, as defined in [HR01\(109\)](#), of a career
216 service employee to the vacant position consistent with

HR04(5)(2).

- 4) An employee has the right to maintain previously attained career service status so long as the employee remains in the current career service position, or is moved by a management-initiated reassignment as described in HR05-1(3)(b).

- 5) When an employee initiates a move to a different position such as applying for and receiving a promotion as defined in HR01(104), applying and being selected for any other position vacancy, or requesting a transfer as defined in HR01(125), the employee shall convert to an at-will ~~will~~ ~~career service exempt~~ employee status

~~HR05-2. Probationary Period.~~

~~¶~~

~~The probationary period allows management to evaluate an employee's ability to perform the duties, responsibilities, skills, and other related requirements of the assigned career service position. The probationary period is considered part of the selection process for career service status.~~

~~¶~~

~~1) An employee shall receive an opportunity to demonstrate competence in a career service position. Performance expectations shall be established and the employee should receive frequent feedback on performance in relation to those expectations.~~

~~a) During the probationary period, an employee may be separated from state employment in accordance with [HR11-2\(1\)](#).~~

~~b) On or shortly before the end of the probationary period, management shall complete a formal, written evaluation of an employee's performance relative to established expectations.~~

~~c) At a minimum, the evaluation should indicate overall successful or unsuccessful completion of performance expectations during the probationary period.~~

~~d) Management shall give a copy of the written evaluation to the employee and to HR.~~

~~e) The evaluation shall be maintained in the personnel file.~~

~~¶~~

~~2) Each career service position shall be assigned a probationary period consistent with its job.~~

~~a) The probationary period may not be extended except for periods of leave without pay, long term disability, workers compensation leave, temporary transitional~~

~~assignment, or donated leave from an approved leave bank; and extensions may only be granted in consultation with the court level administrator and the HR Director.~~

~~b) The probationary period for a position may not be reduced for an individual employee after the employee is hired into the position.~~

~~c) An employee who has completed a probationary period and obtained career service status shall not be required to serve a new probationary period for the judicial branch unless there is a break in service.~~

~~¶~~

~~3) An employee in a career service position and works at least 20 hours per week/40 hours per pay period has the same probationary period as a full-time employee in the same or similar position.~~

~~¶~~

~~4) Employees in career service positions that normally work less than 20 hours per week or 40 hours per pay period may be subject to a longer probationary period established in writing by management in consultation with HR.~~

~~¶~~

~~5) An employee serving probation in a career service position may be reassigned to another career service position including a career mobility assignment.~~

~~a) Reassignment to a career service position shall include a new probationary period unless the court executive or court level administrator, in consultation with the HR director, determines that the required duties or knowledge, skills, and abilities of the old and new position are similar enough not to warrant a new probationary period.~~

~~b) The probationary period shall be the full probationary period defined in the job description of the new position.~~

HR05-3. ~~At-Will Career Service Exempt~~ Positions.

Unclassified jobs identified in [HR06-3](#) are exempt from provisions of career service. Additionally, all vacant positions on July 1, 2022 or vacated after July 1, 2022 are exempt from provisions of

312 career service. Employees are considered to be appointed, serving
313 at the will and pleasure of the judicial branch. The following
314 principles relating to the nature of the job also result in
315 exemption from career service provisions whether or not the
316 positions were vacated on or after July 1, 2022:

- 318 1) The employee reports directly to the state court
319 administrator.
- 320 2) The employee is in a management position and reports directly
321 to a court executive or a court level administrator.
 - 322 a) Employees in a Clerk of Court or a Chief Probation
323 Officer position prior to July 11, 2008, and had already
324 attained career service status in those positions are
325 considered "legacy career service" employees and retain
326 career service status.
 - 327 b) The rights of "legacy career service" Clerks of Court
328 and Chief Probation Officers do not supersede, but are
329 consistent with, the provisions of [HR05-1\(4\)](#) and [HR05-
330 1\(5\)](#).
- 331 3) The employee is in a law clerk attorney or an attorney
332 position for the judicial branch.
- 333 4) The employee is an employee of the Information Technology
334 Department.
 - 335 a) Employees hired into the IT department prior to January
336 1, 2019, and who had already attained career service
337 status are considered "legacy career service" employees
338 and retain career service status.
 - 339 b) The rights of a "legacy career service" IT employee does
340 not supercede, but is consistent with, the provisions of
341 [HR05-1\(4\)](#) and [HR05-1\(5\)](#).

342 **HR05-4. ~~At-Will Career Service Exempt~~ Introductory Period.**

- 343 1) Each ~~at-will career service exempt~~ position shall start with
344 an introductory period consistent with its job.
 - 345 a) During the introductory period, an employee may be
346 separated from state employment in accordance with
347 [HR11-2\(1\)](#).

- 356
- 357 b) Using the principles outlined in HR10-1, management
- 358 shall use the introductory period to evaluate the
- 359 employee's performance, conduct, and ability to fulfill
- 360 the mission of the judicial branch.
- 361 c) Unless otherwise determined by management, in
- 362 consultation with HR:
- 363 i) New employees or employees moving to a new
- 364 position should receive formal written performance
- 365 expectations within 30 days of assignment.
- 366 ii) Employees should receive a formal written
- 367 evaluation at the conclusion of their introductory
- 368 period, typically 12 months.
- 369 d) At a minimum, the evaluation should indicate overall
- 370 successful or unsuccessful completion of performance
- 371 expectations during the introductory period.
- 372 e) Management shall give a copy of the written evaluation
- 373 to the employee and to HR.
- 374 f) The evaluation shall be maintained in the personnel
- 375 file.
- 376
- 377

378 **HR05-54. Policy Exceptions.**

379

380 The HR Director may authorize exceptions to this policy

381 consistent with HR02-2(1).

382

383 **Authorizing, and Implemented or Interpreted Law or Code: UCJA**

384 **§3-402**

385

386

387

388

389

390 **HR06-9. Conversion from Career Service Status to ~~At-Will~~Career**

391 **~~Service Exempt~~ Status.**

- 392 1) If a career service position or group of career service
- 393 positions is/are approved by the Judicial Council for
- 394 conversion to ~~at-willcareer service exempt~~ status, a career
- 395 service employee shall have 60 days from the date of offer to
- 396 elect to convert from career service to ~~at-willcareer service~~
- 397 ~~exempt~~. As an incentive to convert, a career service employee
- 398 shall be provided the following:
- 399 a) An administrative salary increase of at least 1% or up
- 400 to the current salary range maximum. An employee at or
- 401 above the current salary range maximum shall receive, in
- 402 lieu of the salary adjustment, a one-time bonus not to
- 403 exceed the limits under HR06-7(1)(b);

b) State paid term life insurance coverage if determined eligible by the Group Insurance Office to participate in the Term Life Program, Public Employees Health Plan, as provided in [HR06-10](#).

2) An employee electing to convert to ~~at-will~~~~career service exempt~~ after the 60 day election period may not be eligible for the wage increase, but shall be entitled to apply for the insurance coverage through the Group Insurance Office.

3) An employee electing not to convert to ~~career service exempt~~~~at-will~~ shall retain career service status; however, when a career service employee vacates an ~~career service exempt~~~~at-will~~ position, subsequent appointments shall be ~~career service exempt~~~~at-will~~.

~~4) A court level administrator may reorganize in a manner such that a current career service exempt position no longer meets the criteria for exemption. In this case, the employee of the position no longer exempt shall hold career service status.¶~~

~~a) Only if the employee had previously earned career service status. However, the employee may not be eligible for a severance package, increased annual leave accrual, or exempt life insurance. Should this be the case, management and the employee shall make arrangements through the Group Insurance Office to discontinue the exempt life insurance coverage.¶~~

~~b) If previous career service status was not previously earned, the employee shall begin a probationary period on the effective date of the position change, and may not be eligible for a severance package, increased annual leave accrual, or exempt life insurance. Should this be the case, management and the employee shall make arrangements through the Group Insurance Office to discontinue the exempt life insurance coverage.¶~~

5) An ~~at-will~~~~career service exempt~~ employee who has not previously earned career service status shall remain ~~at-will~~~~career service exempt~~. When the employee vacates the position, subsequent appointments shall be consistent with [HR04](#).

6) Management shall communicate to all impacted and future eligible employees the conditions and limitations of this incentive program.

452
453 **HR06-10. State Paid Life Insurance.**

- 454
455 1) A benefits eligible ~~at-will~~~~career service exempt~~ employee may
456 be provided the following benefits if the employee is approved
457 through underwriting:
458 a) State paid term life insurance coverage if determined
459 eligible by the Group Insurance Office to participate in
460 the Term Life Program Public Employees Health Plan:
461 i) Hourly wage \$24.03 or less shall receive \$125,000
462 of term life insurance;
463 ii) Hourly wage between \$24.04 and \$28.84 shall receive
464 \$150,000 of term life insurance;
465 iii) Hourly wage of \$28.85 or higher shall receive
466 \$200,000 of term life insurance.
467
468 2) The state paid life insurance benefits described in this
469 section are subject to availability of funds and are at the
470 discretion of the appointing authority.
471

472
473 **HR06-11. Severance Benefit.**

- 474
475 1) At the discretion of the appointing authority, a benefits
476 eligible ~~at-will~~~~career service exempt~~ employee who is
477 separated from state service through an action initiated by
478 management, including a resignation in lieu of termination,
479 may receive at the time of separation a severance benefit
480 equal to:
481 a) Salary at the rate of:
482 i) One week of salary up to a maximum of 12 weeks for
483 each year of consecutive ~~at-will~~~~career service~~
484 ~~exempt~~ service in the judicial branch for court
485 executives; or
486 ii) Two weeks of salary up to a maximum of 24 weeks for
487 each year of consecutive ~~at-will~~~~career service~~
488 ~~exempt~~ service for court level administrators,
489 directors, and the state court administrator,
490 deputy administrator, and assistant administrator.
491 b) If eligible for COBRA, the level of medical insurance
492 coverage only at the time of severance shall be provided
493 at the rate of two pay periods for each year of
494 consecutive ~~at-will~~ ~~career service exempt~~ service, up to
495 a maximum of 13 pay periods.
496
497

498 **HR06-12. Human Resource Transactions.**

The HR Director shall publicize procedures for processing human resource transactions and documents.

HR06-13. Policy Exceptions.

The HR Director may authorize exceptions to this policy consistent with [HR02-2\(1\)](#).

Authorizing, and Implemented or Interpreted Law: [UJA 3-201\(9\)](#),
[UCJA 3-402](#), [UCA §67-8-2](#), [§78A-6-203](#)

HR07-3. Annual Leave.

1) An eligible employee shall accrue leave based on the following years of benefit(s)-eligible state service:

- a) Less than 5 years: four hours per pay period;
- b) At least 5 and less than 10 years: five hours per pay period;
- c) At least 10 and less than 20 years: six hours per pay period;
- d) 20 years or more: seven hours per pay period.

526
527 2) The maximum annual leave accrual rate shall be granted to an
528 employee, effective from the day the employee is appointed
529 through the duration of the appointment under the following
530 conditions:

- 531 a) An employee in a court executive, court level
532 administrator, or director level position; or
533 b) An employee who is FLSA exempt and who has a direct
534 reporting relationship to a deputy court administrator
535 or state court administrator.
536 c) The employee is a newly hired, FLSA exempt, and ~~career~~
537 ~~service-exempt-at-will~~ employee of the IT department and
538 has been granted maximum annual leave accrual by the IT
539 director.

540
541 3) The accrual rate for an employee rehired to a position that
542 receives leave benefits shall be based on all eligible
543 employment in which the employee accrued leave.
544
545
546

547 Section 10 - Employee Development

548
549 For this policy, the word employee refers to a career service
550 employee, unless otherwise indicated. Management is encouraged to
551 follow similar procedures and principles for at-will employees.
552 ~~utilize the Utah Performance Management system for employee~~
553 ~~performance expectations and evaluations. PM provides and assists~~
554 ~~with transparency, consistency, facilitation of HR support,~~
555 ~~transfer of performance expectations from supervisor to~~
556 ~~supervisor, and other efficiencies.~~
557
558
559

560 HR10-1 Performance Expectations and Evaluation.

561
562 1) Management shall identify performance expectations and
563 provide performance feedback and evaluation regularly and in
564 accordance with the following criteria:

- 565 a) Performance expectations and feedback shall be
566 established and measured against the effectiveness in
567 advancing the overall mission of the judicial branch.
568 b) Specific performance standards and expectations for each
569 employee shall be provided in writing.
570 c) Managers or supervisors shall notify employees when
571 performance standards or expectations are implemented or
572 modified.
573 d) Managers or supervisors shall provide employees with

regular verbal and written feedback based on established performance expectations and effectiveness in advancing the mission of the judicial branch.

2) An employee may request a formal, written performance evaluation on a regular or ad hoc basis, not to exceed a cadence of once per fiscal year. Management may provide performance feedback both formal or informal and both verbal or written as frequently as needed.

a) An employee has the right to include written comments pertaining to a formal, written performance evaluation if desired.

~~b) A probationary employee shall receive a performance evaluation at the end of the probationary period.~~

b) An employee shall receive a performance evaluation at the end of the introductory period.

HR10-5. Education Assistance.

Management may assist an employee in the pursuit of educational goals by granting administrative leave to attend classes, or a subsidy of educational expenses (subject to availability of funds), or both.

1) Prior to granting education assistance, the following conditions must be met:

a) The educational program being pursued by the employee must be shown to provide a benefit to the judicial branch.

b) The employee shall successfully complete the required course work or educational requirements of a program.

c) The employee shall agree to repay any assistance received if the employee resigns from employment with the judicial branch within one year of completing educational work for which reimbursement was received.

d) Education assistance may not exceed \$5,250 per employee

- 612 in any one calendar year unless approved in advance by
613 a court level administrator.
- 614 a) The employee shall disclose all scholarships, subsidies
615 and grant monies provided to the employee for the
616 educational program.
- 617 i) Except for funding that must be repaid by the
618 employee, the amount reimbursed by the judicial
619 branch may not include funding received from
620 sources in [HR10-5\(1\)\(e\)](#).
- 621
- 622
- 623 2) The employee receiving assistance shall be responsible to
624 determine the taxable or nontaxable status of educational
625 assistance reimbursements.
- 626
- 627 3) Employee eligibility for education assistance includes the
628 following provisions:
- 629 a) Both career service and ~~at-will career service exempt~~
630 employees may be eligible.
- 631 b) The employee must be in a benefited position.
- 632
- 633 4) ~~Employees must have the approval of a court executive or AOC~~
634 ~~director as applicable.~~
- 635
- 636 5) Employees are highly encouraged to attend course(s) during
637 non-working hours. However, management may grant exceptions
638 and allow a temporary flexible work schedule to allow the
639 employee to attend course(s) as long as court business needs
640 are met. Management may also grant limited exceptions to allow
641 administrative leave as part of the education assistance
642 program, consistent with [HR07-7](#).
- 643
- 644 6) If management requires an employee to attend an educational
645 program or course, costs shall be paid in full with local
646 district/court/office funds rather than education assistance
647 funds.
- 648
- 649 7) Books are not eligible for reimbursement from education
650 assistance funds.
- 651
- 652
- 653

654
655 9) Reimbursements shall be paid only when the following
656 requirements have been met:

- 657 a) The employee shall complete an education assistance
658 contract or agreement as established by the Finance
659 Department.
- 660 b) Evidence of course participation and/or successful
661 completion of coursework shall be submitted indicating
662 either a "pass" or a 2.0 grade point on a 4.0 scale or
663 better.
- 664 c) Receipt(s) of tuition costs paid shall be submitted.
- 665 d) All other procedural elements including completion and
666 submission of applicable Division of State Finance forms
667 as required by the Finance Department shall be completed.
- 668 e) All other procedural elements required by the Finance
669 Department including evidence of course participation
670 and/or successful completion of either "pass" or a 2.0
671 grade point on a 4.0 scale or better, receipt(s) of
672 tuition costs paid, applicable Division of State Finance
673 forms completed, etc.

674
675 10) If there are more requests for education assistance than
676 there are available funds to reimburse, requests may be
677 approved on a prorated basis and/or based on value to the
678 judicial branch.

679
680 11) If an employee separates from employment with the judicial
681 branch within 12 months from the date an education assistance
682 reimbursement payment was received, the employee may be
683 obligated to repay the amount received within that 12-month
684 period.

685
686
687
688
689 **HR11-1 Disciplinary Action.**

690
691 1) Management may discipline any employee for any of the
692 following causes or reasons:

- 693 a) Non-compliance with these policies or other
694 local/applicable policies, including but not limited to
695 the laws of the State of Utah or the United States (other
696 than minor traffic offenses), safety policies and
697 procedures, professional standards, ethical violations,
698 etc.;
- 699 b) Work performance that is inefficient or incompetent;
- 700 c) Failure to maintain skills and adequate performance
701 levels;

- 702 d) Insubordination or disloyalty to the orders of a
703 supervisor or member of management;
704 e) Misfeasance, malfeasance, or nonfeasance;
705 f) Any incident involving intimidation, physical harm, or
706 threats of physical harm against co-workers,
707 management, or the public;
708 g) No longer meeting the requirements of the position;
709 h) Conduct, on or off duty, which creates a conflict of
710 interest with the employee's public responsibilities or
711 impacts the employee's ability to perform job
712 assignments;
713 i) Failure to advance the mission of the judicial branch
714 or the good of public service, including conduct on or
715 off duty which demeans or harms the effectiveness or
716 ability of the judicial branch to fulfill its mission;
717 j) Dishonesty; or
718 k) Misconduct, which may include but is not limited to:
719
720 i) Violation of the Employee Code of Ethics and
721 Conduct as described in [HR09](#)
722 ii) Violation of the rules of procedure or the Code of
723 Judicial Administration
724 iii) Conduct which endangers the peace and safety of
725 others or poses a threat to the public interest
726 iv) Unjustified interference with the work of other
727 court employees
728 v) Unauthorized absence
729 vi) Falsification or unauthorized alteration of
730 records;
731 vii) Violation of court policies
732 viii) Falsification of employment application
733 ix) Unlawful discrimination in hiring, assignment, or
734 promotion
735 x) Workplace Harassment in accordance with [HR15](#)
736 xi) Derisive or demeaning behavior
737 xii) Use of alcohol or drugs (other than medication
738 prescribed by a health care provider) that
739 negatively affect job performance.
740
741 2) Management shall consult with HR before disciplining an
742 employee.
743
744 3) All disciplinary actions of career service employees shall
745 be governed by principles of due process. The disciplinary
746 process shall include all of the following, except as
747 provided in [HR11-1\(5\)](#):
748 a) The employee is notified in writing of the proposed
749 discipline, the reasons supporting the intended action,
750 and the right to reply to management or to the HR

- department within five working days.
- b) The employee's reply shall be received by management or by HR within five working days in order for management to consider the reply before discipline is imposed.
 - c) If an employee waives the right to reply or does not reply within the time frame established by management or within five working days, whichever is longer, discipline may be imposed in accordance with these policies.
- 4) After a career service employee has been informed of the reasons for the proposed discipline and has been given an opportunity to respond and be responded to, management may discipline that employee, or any ~~at-will career service exempt~~ employee not subject to the same procedural rights, by imposing one or more of the following forms of disciplinary action:
- a) Letter of Reprimand;
 - b) Suspension without pay up to 30 calendar days per incident requiring discipline;
 - c) Demotion as defined by [HR01\(31\)](#), reducing the employee's current actual wage, as determined by the court level administrator in consultation with the HR Director;
 - d) Dismissal in accordance with [HR11-2](#).
- 5) If management determines that a career service employee endangers or threatens the peace and safety of others or poses a grave threat to the public service or is charged with aggravated or repeated misconduct, management may impose the following actions pending an investigation and determination of facts:
- a) Paid administrative leave; or
 - b) Temporary reassignment to another position or work location at the same current actual wage.
- 6) When disciplinary action is imposed, the employee shall be notified in writing of the discipline, the reasons for the discipline, the effective date, and the length (if applicable) of the discipline.
- 7) Imposed disciplinary actions are subject to grievance and appeals procedure for career service employees, as outlined in [HR17](#). The employee and management may agree in writing to waive or extend any grievance step, or the time limits specified for any grievance step.

HR11-2. Dismissal or Demotion.

An employee may be dismissed or demoted for cause under [HR10-2\(2\)\(e\)](#) and [HR11-1](#), and through the process outlined in this policy.

- 1) ~~An at-will probationary employee or career service exempt~~ employee may be dismissed or demoted for any or for no reason without right of grievance or appeal.
- 2) No career service employee shall be dismissed or demoted from a career service position unless management has observed the following procedures:
 - a) Management shall notify the employee in writing of the specific reasons for the proposed dismissal or demotion.
 - b) The employee shall have up to five working days to reply. The employee shall reply within five working days for the court executive, court level administrator, administrative office director, or designee to consider the reply before discipline is imposed.
 - c) The employee shall have an opportunity to be heard by the court executive, court level administrator or administrative office director as applicable. This meeting shall be strictly limited to the specific reasons raised in the notice of intent to demote or dismiss.
 - i) At the meeting the employee may present, either in person, in writing, or with a representative, comments or reasons as to why the proposed disciplinary action should not be taken. The court executive, court level administrator or administrative office director is not required to receive or allow other witnesses on behalf of the employee.
 - ii) The employee may present documents, affidavits or other written materials at the meeting. However, the employee is not entitled to present or discover documents within possession or control of judicial branch management that are private, protected, or controlled under UCJA rules.
 - d) Following the meeting, the employee may be dismissed or demoted if the court executive, court level administrator, or administrative office director finds adequate cause or reason.
 - e) The employee shall be notified in writing of the court executive, court level administrator, or administrative

office director's decision. The reasons shall be provided if the decision is a demotion or dismissal.

HR12-3. Reduction in Force.

Reductions in force (RIF) shall be governed by these policies and HR business practices.

1) When staff will be reduced in one or more categories of work, management shall develop a workforce adjustment plan (WFAP) in consultation with HR. A career service employee shall only be given formal written notification of separation after a WFAP has been reviewed by the HR Director or designee, and the State Court Administrator or designee, and approved by the Judicial Council. The following items shall be addressed in the WFAP:

- a) The categories of work to be eliminated, including the competitive area(s) and group(s) impacted;
 - i) A competitive area may include the entire judicial branch, or small units such as districts, offices, departments, or combinations of those units;
 - ii) The competitive groups within the impacted competitive areas consist of all positions in the same or significantly similar job classifications.
- b) Specifications of measures taken to facilitate the placement of affected employees through reassignment, transfer and relocation to vacant positions for which the employee qualifies;
- c) Job-related criteria as identified in [HR12-3\(3\)\(a\)](#) used for determining retention points; and
- d) When more than one employee is affected, employees shall be listed in order of retention points.
- e) Retention points do not have to be calculated for a single employee WFAP.

2) Eligibility for RIF.

- a) Only career service employees who have been identified in an approved WFAP may be separated via a RIF.
- b) An employee covered by USERRA shall be identified, assigned retention points, and notified of the RIF in the same manner as a career service employee.

3) Retention points shall be determined for all affected employees within a category of work by giving appropriate consideration for proficiency and seniority with proficiency

896
897 being the primary factor.

- 898 a) Performance evaluations and/or other standardized
899 performance measures, along with additional relevant
900 performance information for the past three years may be
901 taken into account for assessing job proficiency.
- 902 b) Seniority shall be determined by the length of most
903 recent continuous career service, which commenced in a
904 career service position. ~~for which the probationary~~
905 ~~period was successfully completed.~~
- 906 i) Exempt service time subsequent to attaining career
907 service with no break in service shall be counted
908 for purposes of seniority.
- 909 ii) Active military duty during employment with the
910 judicial branch shall be counted for purposes of
911 seniority not to exceed four (4) years.
- 912 c) In each WFAP, management shall develop the criteria they
913 will use for determining retention points.
- 914 i) Management shall consult with the HR Director or HR
915 Manager in determining retention points criteria.
- 916 ii) Plans shall comply with current HR business
917 practices.

918
919 4) The order of separation shall be:

- 920 a) Temporary employees in time-limited positions or
921 indefinite part-time employees, as described in HR04-
922 2(4) (a) and HR04-2(4) (b); at-will employees then ~~-~~
923 ~~Probationary employees, then~~
- 924 b) Career service employees with the lowest retention
925 points.
- 926 i) In case of a tied score, management's decision
927 shall be based on a comparison of each employee's
928 contribution to the mission of the judicial branch,
929 including factors such as job knowledge and skills,
930 competence, reliability, and personal conduct.

931
932 5) An employee, including one covered under USERRA, who is
933 identified for separation due to a RIF shall receive written
934 notification of:

- 935 a) The pending RIF; and
936 b) Final written notification of separation on the day of

939
940 separation.
941

942 6) An employee separated via a RIF may appeal the decision
943 to the court level administrator by submitting a written
944 notice of appeal within 20 working days after the date of
945 separation and in accordance with [HR17](#).
946

947 7) A career service employee who is separated via a RIF shall
948 be governed by the policies in place at the time of
949 separation.
950

951 8) A career service employee who is separated in a RIF shall
952 be given preferential scoring in the process of developing
953 the hiring list as outlined in HR business practices when
954 applying for a career service position.

955 a) Preferential consideration shall be given when the
956 former employee accepts a career service position.

957 b) An employee separated via a RIF may be rehired under
958 [HR04-6](#).

959 c) At management discretion and in consultation with
960 HR, an individual rehired to a career service
961 position may buy back part or all accumulated annual
962 and converted sick leave that was cashed out when
963 separated due to a RIF.
964

965 9) A career service employee accepting ~~an at-willa-career~~
966 ~~service-exempt~~ position without a break in service, wh is
967 later not retained by the appointing authority shall be
968 given preferential consideration as described in HR12-
969 3(8)
970

971
972 10) Prior to separation and in lieu of a RIF, management
973 may reassign an employee to a vacant career service
974 position for which the employee qualifies under [HR04-5](#).
975
976
977
978
979

980 **HR17-1. Eligibility and Procedural Requirements.**
981

982 1) Only judicial branch career service employees or any
983 employee reporting or alleging retaliatory action as

984 defined by [HR15-2](#) may use these grievance procedures.

985 ~~a) Pursuant to [HR11-2\(1\)](#), the Grievance Review Panel~~
986 ~~has no authority to review grievances filed by at-~~
987 ~~will employees. by probationary employees or by~~
988 ~~career service exempt employees.~~

989 a)

HR04-15. Background Checks.

Offers of employment and volunteer service should be made contingent upon the successful completion of a criminal background check through the Utah Bureau of Criminal Investigation only and not through any internal court case management or records retention systems. The start date of employment or volunteer service shall not precede the completion of the background check process.

- (1) Background checks shall only be conducted with the written consent of the candidate(s) for a job.
- (2) Failure to provide consent to a background check shall disqualify an applicant for hiring.
- (3) Employees in the judicial branch who hold responsibility to receive background check information as part of a hiring or volunteer process shall do so in accordance with UCA §53-10-108(4).
- (4) A hiring manager may choose not to hire a candidate if the background check contains any of the following:
 - a) A felony conviction for a crime such as violence against people or destruction of property, illegal drug or alcohol use, theft of identity or property, fraud, embezzlement, or other similar offenses including but not limited to those identified in UCA §76-6 and §76-6a, UCA §76-8, UCA §76-9, and UCA §76-10.
 - b) A misdemeanor conviction involving crimes of violence against people or destruction of property, identity theft, fraud, or other similar offenses.
- (5) Results of a background check shall be delivered to the Human Resources representative. The results shall not be stored or shared in writing with any other party.
- (6) Information relevant to a hiring decision such as those mentioned in (4)a) and (4)b) may be discussed only with individuals directly involved in a hiring decision in accordance with UCA §53-10-108(4).
- (7) Factors that may be considered in the hiring decision include but are not limited to:
 - a) The relationship between the nature of the crime and

- the job for which the candidate has applied.
 - b) The number of convictions.
 - c) The amount of time since the candidate's conviction date(s) and/or the date(s) of the crime(s) committed.
 - d) The candidate's conduct and demonstration of public trust since the conviction.
 - e) False or misleading statements, verbal or written, made by the candidate regarding his/her criminal record.
- (8) Disagreements about how to proceed with a candidate's background check information among individuals involved in a hiring decision may be presented to a court executive or court level administrator for a final hiring decision.
- (9) All provisions of [HR04-15](#) shall similarly apply to volunteers and/or volunteer service.

HR04-16. Policy Exceptions.

The HR Director may authorize exceptions to this policy consistent with [HR02-2\(1\)](#).

Authorizing, and Implemented or Interpreted Law or Code: [UCA §49-11-13](#), [UCA §52-3-1](#), [UCA §53-10-108](#), [UCA §67-20-8](#), [UCJA 3-402](#)

1 **HR07-4. Sick Leave.**

- 2
- 3 1) An eligible employee shall accrue sick leave, not to exceed
- 4 four hours per pay period. Sick leave shall accrue without
- 5 limit.
- 6
- 7 2) Management may grant sick leave for ~~preventative health care-~~
- 8 ~~and dental care,~~ maternity, paternity, and adoption care, or
- 9 for absence from duty because of illness, injury or disability
- 10 of the employee, a spouse, children,; parents, or an
- 11 individual for whom the employee is a legal guardian; or
- 12 qualifying FMLA purposes.
- 13
- 14 3) Management may approve the use of sick leave for other unique
- 15 medical situations.
- 16
- 17 4) When management approves the use of sick leave, an employee
- 18 may use any combination of Program I, Program II, and Program
- 19 III sick leave.
- 20 a) Program I consists of "Pre-2006 Sick" and "Pre-2006
- 21 Converted Sick" leave accrued prior to January 1, 2006.
- 22 Leave accrued under this program is tied to retirement
- 23 value as described in various locations throughout this
- 24 section.
- 25 b) Program II consists of "Pre-2014 Sick" and "Pre-2014
- 26 Converted Sick" leave accrued between January 1, 2006,
- 27 and January 2, 2014. Leave accrued under this program is
- 28 tied to retirement value as described in various
- 29 locations throughout this section.
- 30 c) Program III consists of sick leave hours accrued on or
- 31 after January 3, 2014. Leave accrued under this program
- 32 holds no value upon retirement.
- 33 d) The payroll system automatically draws from Program III
- 34 sick leave unless an employee makes a specific request
- 35 using the [required forms](#) and procedures established by
- 36 the Department of Finance.
- 37
- 38 5) An employee shall contact management prior to the beginning
- 39 of the scheduled workday the employee is absent due to illness
- 40 or injury.
- 41
- 42 6) Any request for sick leave to cover an absence in excess of
- 43
- 44

three consecutive working days shall be supported by administratively acceptable evidence.

- 7) If there is reason to believe that an employee is abusing the sick leave benefit, a supervisor may require an employee to produce administratively acceptable evidence regardless of the number of sick hours used.
- 8) Unless retiring, an employee separating from state employment shall forfeit any unused sick leave without compensation.
 - a) An employee rehired into a benefited position within one year of separation due to a reduction in force shall have forfeited sick leave reinstated to Program I, Program II, and Program III as accrued prior to the reduction in force.
 - b) An employee rehired with benefits within one year of separation for reasons other than a reduction in force shall have forfeited sick leave reinstated as Program III sick leave.
 - c) An employee accepting a benefits eligible position within one year of forfeiting unused sick leave for accepting a non-benefits eligible position shall have their sick leave reinstated as Program III.
 - d) An employee who retires from state service and is rehired may not reinstate forfeited sick leave.

HR07-9. Bereavement Leave.

Upon request from the employee, mManagement shall~~may~~ authorize at least three work days bereavement leave per occurrence with pay, following the death of a member of the employee's immediate family or when a pregnancy ends in miscarriage or stillbirth under conditions set forth in UCA § 63A-17-106 . Additional leave may be authorized at management discretion depending on circumstances. ~~Bereavement leave may not be charged against accrued sick or annual leave.~~

1) The immediate family means relatives of the employee or spouse including in-laws, step-relatives, or equivalent relationship as follows:

- a) Spouse;
- b) Parents;
- c) Siblings;
- d) Children;
- e) All levels of grandparents; or
- f) All levels of grandchildren.

2) Management may authorize bereavement leave for other unique family relationships.

3) Management may not charge bereavement leave against an employee's accrued leave balances. ~~may authorize three work days of bereavement leave to an employee when a pregnancy ends in stillbirth or miscarriage consistent with UCA § 63A-17-106. Additional bereavement leave for stillbirth or miscarriage may be authorized at management discretion depending on circumstances.~~

~~4)~~

5) Bereavement leave hours shall be coded as OE (Other - Emergency) in the employee timesheet through the payroll system.

HR08-5. Compensatory Time for FLSA Nonexempt Employees.

- 1) An FLSA non-exempt employee shall sign a prior overtime agreement authorizing management to compensate the employee for overtime worked by actual payment or accrual of compensatory time at time and one half. Management shall not have influence over an employee's election for overtime compensation at hire. An FLSA non-exempt employee desiring to change her/his election for overtime compensation later on must obtain management approval in consultation with the HR Department.
 - a) An FLSA non-exempt employee may receive compensatory time for overtime up to a designated maximum.
 - i) Typically, the comp time maximum is 80 hours.
 - ii) As a rare exception, compensatory time may accrue up to 240 hours only with prior approval from the State Court Administrator or designee in consultation with the HR Director.
 - iii) Once an employee reaches the maximum, additional overtime shall be paid on the payday for the period in which it was earned.
 - b) Compensatory time balances for an FLSA non-exempt employee shall be paid down to zero at the rate of pay in the old position in the same pay period that the employee is:
 - i) Transferred from the judicial branch to an external state agency; or
 - ii) Promoted, reclassified, reassigned, or transferred to an FLSA exempt position.
 - c) Management may pay down any portion of compensatory time balances for FLSA non-exempt employees at any time.

1 **HR08-2. Teleworking.**

2
3 1) Teleworking is an option that may be considered by
4 management for a variety of reasons, including but not
5 limited to maximizing efficiency of judicial branch
6 business, meeting needs of court patrons, leveraging
7 cost-savings measures, etc. It is not a universal employee
8 benefit and may be terminated by management at any time.

9
10 2) Before beginning a routine teleworking arrangement,
11 management and an employee shall establish a written agreement
12 specifying the conditions of the routine teleworking work
13 status, including the expectation to comply with this policy
14 and any other applicable expectations the district, office,
15 or team may require.

16 a) The written agreement shall be endorsed by management
17 and by the employee.

18 b) Management shall send the endorsed agreement to HR for
19 maintenance in the official personnel file, or
20 alternatively, upload the agreement directly in the
21 employee's Utah Performance Management (UPM) account.

22 c) Any amendments to this agreement shall require a new
23 written agreement endorsed by management and by the
24 employee to supersede the old agreement and shall be
25 maintained by HR in the official personnel file, or
26 alternatively, shall be uploaded directly in the
27 employee's Utah Performance Management (UPM) account.

28
29 3) All teleworkers are required to protect confidential and/or
30 sensitive information in accordance with federal and state
31 regulations and in accordance with judicial branch rules and
32 policies.

33 a) Unauthorized disclosure of such information is subject
34 to penalties provided by law.

35 b) Unauthorized disclosure of information may also result
36 in disciplinary action up to and including termination
37 of employment.

38 c) Teleworkers must adhere to the Acceptable Use of
39 Information Technology Resources policy found in
40 HR09-15.

41
42 4) Management shall establish and monitor performance standards
43 in order to monitor how the needs of court patrons and other
44 judicial branch stakeholders are either met or exceeded by a
45 routine teleworking arrangement.

46
47 5) Management may require a routine teleworker to attend
48 in-person meetings, conferences, or other activities away

49 from the teleworking work location.

50 a) Mileage to and from the required activity will be
51 reimbursed when the location of the activity is more
52 than 50 miles from the primary work site, but only for
53 such mileage in excess of 50 miles in each direction of
54 travel.

55 b) Time spent traveling during the normal work schedule
56 shall be counted as work hours.

57 c) Travel time outside of the normal work schedule shall
58 only be counted as work hours if the activity is more
59 than 50 miles from the primary work site.

60
61 6) Routine teleworkers are responsible to establish and provide
62 home internet and telephone services for the purposes of
63
64

teleworking.

- a) The quality of internet service must be able to support all work-related applications, systems, and devices.
 - b) All initial set-up costs or costs associated with a teleworker changing teleworking work locations are the responsibility of the teleworker.
- 7) Routine teleworkers are required to use state-owned computer equipment and software.
- a) They may not install unauthorized hardware or software on state-owned equipment nor copy or distribute state provided software.
 - b) All state owned equipment shall be returned to the judicial branch at the time the teleworking arrangement is terminated, including by termination of employment.
- 8) Occasional teleworkers using their own computer equipment or software acknowledge that they do so at their own risk and agree to release the judicial branch from any and all liability associated with business use of personal items. The judicial branch will not reimburse occasional teleworkers for damage to their own computer equipment incurred when the employee is teleworking.
- 9) No travel, equipment, or service-related reimbursements will be provided for occasional teleworking.
- 10) Teleworking employees must abide by all time-keeping policies and restrictions against working unauthorized overtime.

HR09-15. Acceptable Use of Information Technology Resources.

Information technology (IT) resources are provided to employees to assist in the performance of assigned tasks and in the efficient day to day operations to further the mission of the judicial branch.

- 1) Providing IT resources to an employee does not imply an expectation of privacy. Management may:
 - a) View, authorize access to, and disclose the contents of electronic files or communications as required for legal, audit, or legitimate state operational or management purposes;
 - b) Monitor the network or email system including the content of electronic messages, including stored files, documents, or communications as are displayed in real-time by employees, when required for state business, and within the officially authorized scope of the person's employment.
- 2) An employee may engage in incidental and occasional personal use of IT resources provided that such use does not:
 - a) Disrupt or distract from the conduct of judicial branch business due to volume, timing, or frequency;
 - b) Involve solicitation;
 - c) Involve for-profit personal business activity;
 - d) Involve actions, which are intended to harm or otherwise disadvantage the judicial branch; or
 - e) Involve illegal and/or activities prohibited by this policy.
- 3) An employee shall:
 - a) Comply with UCJA rules governing privacy of information when transmitting information with state provided IT resources.
 - b) Report to management any computer security breaches, or the receipt of unauthorized or unintended information.
 - c) Login to the court supplied Virtual Private Network (VPN) at least weekly to obtain security updates, when not regularly connected to the courts network.
 - d) Utilize "courtquest" Wifi for all personal devices.

4) While using state provided IT resources, an employee may not:

- a) Access private, protected, or controlled records regardless of the electronic form without data owner authorization;
- b) Divulge or make known his/her own password(s) to another person;
- c) Distribute offensive, disparaging or harassing statements including those that might incite violence or that are based on race, national origin, sex, sexual orientation, gender identity, age, disability or political or religious beliefs, or any harassing statements based on any other class protected by state or federal law;
- d) Distribute information that describes or promotes the illegal use of weapons or devices including those associated with terrorist activities;
- e) View, transmit, retrieve, save, print or solicit sexually-oriented messages or images;
- f) Use state-provided resources to violate any local, state, or federal law;
- g) Use state-provided IT resources for commercial purposes, product advertisements, or "for-profit" personal activity;
- h) Use state-provided IT resources for religious or political functions, including lobbying as defined according to [UCA §36-11-102](#) and [Administrative Rule R623-1](#);
- i) Represent oneself as someone else including either a fictional or a real person;
- j) Knowingly or recklessly spread computer viruses, or act in any way that compromises court IT security. ~~including acting in a way that effectively opens file types known to spread computer viruses particularly from unknown sources or from sources from which the file would not be reasonably expected to be connected with.~~
- k) Create and distribute or redistribute "junk" electronic communications such as chain letters, advertisements, or unauthorized solicitations;
- l) Knowingly compromise the confidentiality, integrity, or availability of the state's information resources.
- m) Utilize court technology accounts for personal or non-court related activities.

- n) Install any software or hardware licensed or unlicensed without approval from management and IT.
- 5) Employees shall complete annually assigned Cybersecurity training and adhere to all principles and practices outlined therein.
- 6) An employee who violates this policy may be disciplined according to [HR11](#).

HR10-3. Written Warnings and/or Memorandums of Understanding (MOUs) .

Management may use written warnings and/or MOUs to prevent and/or to address certain performance or conduct problems. These documents are considered as supportive, corrective, and guiding documents. They are not considered disciplinary actions and should not be used as a screening tool in any recruitment process. Written warnings and MOUs are not subject to review by the ~~grievance~~ Grievance Review Panel~~process~~ under [HR17](#).

HR17-1. Eligibility and Procedural Requirements.

1. Only judicial branch career service employees or any employee reporting or alleging retaliatory action as defined by [HR15-2](#) may use these grievance procedures.
 1. Pursuant to [HR11-2\(1\)](#), the Grievance Review Panel has no authority to review grievances filed by probationary employees or career service exempt employees.
 2. Employees may only grieve matters identified under [UCJA Rule 3-402\(6\)](#) to the Grievance Review Panel, which includes employee promotions, dismissals, demotions, wages, salary, violations of human resources rules, benefits, reductions in force and disciplinary actions.
 3. All other matters may be grieved up to Level 3, as identified in [HR17-5](#).
2. Where a question or dispute exists regarding whether an employee qualifies to use these grievance procedures, such controversies must be resolved through an application to the HR Director. In consultation with General Counsel, the HR Director shall make the final decision on employee eligibility to use these procedures.
3. Class action grievances are not admissible for consideration by the Grievance Review Panel under these grievance procedures.

4. A group grievance is admissible, provided that each aggrieved employee signs the grievance.

5. An aggrieved employee shall submit a grievance in writing to the party identified in [HR17-5](#) and shall include the problem or complaint, a description of the direct harm, and the requested remedy or relief.

6. The employee shall include all relevant evidence and affidavits, to the best of the employee's knowledge, to allow management at the applicable grievance levels to make an informed decision. This information should include but is not limited to:

1. Admitted and disputed allegations;
2. Any witnesses;
3. Documented evidence, exhibits, etc.

7. Intentional withholding of relevant information may be grounds for dismissal of the grievance.

1 Section 13 - Volunteer Programs

2
3
4 **HR13-1. Volunteer Programs.**

5
6 1) Local management may establish a volunteer program,
7 including but not limited to law student externships.

8 a) A volunteer program shall include:

9 i) Documented agreement of the type of work and
10 duration for which the volunteer services will be
11 provided;

12 ii) Orientation to the conditions of service to the
13 judicial branch and the volunteer's specific
14 assignments;

15 iii) Adequate supervision of the volunteer; ~~and~~

16 iv) Documented hours worked by a volunteer if
17 requested by management; ~~and.~~

18 v) Compliance with Title 67, Chapter 20, Volunteer
19 Government Workers Act.

20
21 2) A volunteer may not donate any service to the judicial
22 branch unless the volunteer's services are approved by an
23 administrative office director, or by a court executive or
24 designee in consultation with HR.

25 a) Local management shall approve all work programs for
26 volunteers before volunteers provide service to the
27 judicial branch.

28 b) Volunteers are subject to a criminal background check
29 consistent with [HR04-15](#).

30
31 3) A volunteer is considered a government employee for purposes
32 of workers' compensation, operation of motor vehicles or
33 equipment, if properly licensed and authorized to do so, and

liability protection and indemnification.

- 4) An employee of the judicial branch who wishes to volunteer for the judicial branch or for another state agency may only perform services that are distinctly different from their primary work activities with the judicial branch.
- 5) The HR Director may authorize exceptions to this policy consistent with [HR02-2\(1\)](#).

Authorizing, and Implemented or Interpreted Law: [UCJA 3-402](#);
[UCA](#)
[§67-20-3](#); [UA §67-20-4](#)