

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

Webex video conferencing
May 5, 2023: 9:00 a.m.

MEMBERS:

PRESENT

EXCUSED

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

GUESTS:

Keri Sargent
Bart Olsen
Paul Barron

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 April 7, 2023 meeting. With no changes, Judge DiReda moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

Back from public comment:

- CAJ 1-205. Standing and ad hoc committees
- CJA 3-117. Committee on Court Forms
- CJA 3-406. Budget and fiscal management

The comment period for CJA rules 1-205, 3-117, and 3-406 closed at midnight on May 4, 2023. No comments were received. OFA Director, Jon Puente, requested that the Committee consider rule 1-205 at this meeting so that he can move forward with membership appointments to the Judicial Fairness and Accountability Committee. Mr. Puente is also seeking an expedited effective date. The committee agreed to address rules 1-205, 3-117, and 3-406, making no additional amendments.

With no further discussion, Judge Gardner moved to send CJA 1-205, to the Judicial Council with a recommendation that it be approved as final on an expedited basis with an effective date of June 1, 2023. Judge Gardner also moved to send CJA 3-117 and CJA 3-406 to the Judicial Council with a recommendation that they be approved as final with an effective date of November 1, 2023. Judge Chin seconded the motions. The motions passed unanimously.

(2) HR Policies:

- **Career Service Employment**
 - **Definitions**
 - **HR 4-5**

- **HR 4-14**
- **HR 5-1**
- **HR 5-2**
- **HR 6-9**
- **HR 10-1**
- **HR 11-1**
- **HR 12-3**
- **HR 17-1**

At the Committee's request, Mr. Olsen provided a brief overview of the Council's decision to move away from career service positions. Effective July 1, 2022, the Council approved a proposed policy amendment from the Human Resource Policy Review Committee (HRPRC) ending the practice of creating and filling "career service" positions. Employees hired into career service positions prior to that date were subject to a "probationary period" of 12 months in order to obtain career service status, thus those sections of the HR policy needed to remain in place through June 30, 2022. New hires after July 1, 2022 do not have a formal probationary period. Therefore, cleanup language is needed throughout the HR Policy Manual with an effective date of July 1, 2023.

The proposed amendments remove the terms "probationary" and "probation period" throughout and, where appropriate, make disclaimers or clarifying language to distinguish at-will and career service employees. The HRPRC also proposes replacing the term "career service exempt" with "at-will" to reduce confusion between "career service exempt" and "FLSA exempt."

Although the proposed amendments remove "probation" and "probationary period" from policy, the HRPRC still recommends a practice of close supervision and more detailed performance evaluation for new hires during their first year of employment. To avoid confusion and to 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.

Following discussion, the committee recommended the following amendments:

- Definitions - none
- HR 4-5 - none
- HR 4-14 - none
- HR 5-1
 - Line 208: add... to "an" at-will.
 - Line 229 and 230: took out "an" and "employee."
- HR 5-2 - none
- HR 6-9
 - Line 396: add "status" after "at-will"
 - Line 408: add "status" after "at-will"
 - Line 415 : add "an" prior to "at-will" and "status" at the end of the sentence
- HR 10-1 - none
- HR 11-1 - none
- HR 12-3 - none
- HR 17-1 - none

With no further discussion, Judge Bazzelle moved to send HR Definitions, HR 4-5, 4-14, 5-1, 5-2, 6-9, 10-1, 11-2, 12-3, and 17-1 to the Judicial Council with a recommendation that they be approved as final an effective date of July 1, 2023. Judge DiReda seconded the motions. The motions passed unanimously.

- **Background Checks (HR 4-15)**

For several years, there have been questions about 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.

The committee did not recommend additional amendments to HR 4-15

- **Sick Leave (HR 7-4)**

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.

The committee recommended the following amendments:

- Add “all” to make the policy more inclusive
- Line 7: rewritten to read: “Management may grant sick leave for “physical, mental, and emotional healthcare needs...

Mr. Olsen noted that court management will be trained on approving leave usage for health care needs. The proposed amendments will allow management the ability to give sick leave that is consistent with the needs of the Judicial Branch.

- **Bereavement Leave (HR 7-9)**

A legislative change in 2022 allowed management to approve extended time away, without using personal leave time, when an employee has a family member residing in another country. The proposed amendments include minor adjustments to better organize the policy section and provide more precise instructions to employees and management. No major substantive changes.

The committee recommended the following amendment:

- Remove “at least” from the first paragraph

- **Compensatory Leave Payouts (HR 8-5)**

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.

The committee did not recommend additional amendments to HR 4-15.

- **Acceptable use of IT resources**
 - HR 8-2(3)(c)
 - HR 9-15

Since the pandemic, telecommuting has become a 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.

The committee recommended the following amendments:

HR 8-2(3)(c):

- Link UPM in line 21, rather than line 27, and change “Utah Performance Management” in line 28 to “UPM.”
- Line 38: change “adhere” to “must.”

HR 9-15:

- Paragraph (4) – change “may” to “shall” as “shall” is already in used in paragraph “(5)
- Paragraph (4)(J) – amended to read as “Knowingly or recklessly (i) spread computer viruses or (ii) act in any way that compromises court IT security.”
- Subparagraph (4)(m) – add “;or” at the end of the sentence
- **Written warnings and grievance process**
 - **HR 10-3**
 - **HR 17-1**

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.

The committee did not recommend additional amendments to HR 10-3 or 17-1.

- **Volunteer programs (HR 13-1)**

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 the code and helps ensure the courts’ policy aligns with any future changes to the code.

The committee recommended the following amendment:

- Line 18: link to Title 67, Chapter 20

Following further discussion, Judge DiReda moved to send all of the above HR Policies, as amended, to the Judicial Council with a recommendation that they be approved as final with an effective date of July 1, 2023. Judge Gardner seconded the motion. The motion passed unanimously.

Technology report/proposals:

These items are currently under review or work is in progress with the Technology Advisory Committee (TAC):

- Email retention: Bryson King and Todd Eaton met and reviewed current retention policies and practices. Bryson is working on a draft retention policy that incorporates our current state of technology.
- Audio Request Forms and Fees: The TAC will be reviewing changes to fees associated with requests for court audio, including overall audio system costs.
 - FTR costs approximately \$334,000/year
 - Additional annual IT costs are applicable

- Karl Sweeney, Finance Director, is assisting with the fees listed for clerical staff to align them more closely with salaries today (case manager, IT, JA, etc.).
- Legislative Audit: The court went through a Cybersecurity Audit/Assessment and scored a 92%. Some audit findings will need to be addressed by the TAC.
- Mr. Arishita is working on revisions to the 5 policies listed below. He asked whether the Committee would like to review policy drafts before they go to the TAC or after. The Committee determined that the policies should go to the TAC first.
 - [Acceptable Use Draft Policy](#)
 - [Information Security Draft Policy](#)
 - [IT Information Security Risk Management Draft Policy](#)
 - [IT Policies, Standards & Practices](#)
 - [Software Development Draft Policy](#)
- The TAC is also working on training for CyberSecurity that aligns more closely with the tools the courts use. The training would be available in the LMS system.

Old Business/New Business: None

Adjourn: With no further items for discussion, the meeting adjourned at 10:12 am. The next meeting will be held on June 2, 2023 at 12 PM via Webex video conferencing.