

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING, & TECHNOLOGY COMMITTEE
MEETING AGENDA**

February 2, 2024 – 12:00 p.m. to 2:00 p.m.

Webex

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Chiara
12:05	<u>Rules back from public comment:</u> <ul style="list-style-type: none"> • CJA 3-104. Presiding judges 	Action	Tab 2	Keisa Williams
12:10	CJA 1-305. Board of Senior Judges CJA 3-104. Presiding judges CJA 3-108. Judicial assistance CJA 3-111. Performance evaluations CJA 3-113. Senior judges CJA 3-403. Judicial branch education CJA 3-501. Insurance benefits upon retirement	Action	Tab 3	Judge Appleby Neira Siaperas
12:45	CJA 1-205. Standing and ad hoc committees	Action	Tab 4	Nathanael Player Katsi Pena
12:55	CJA 3-306.04. Interpreter appointment, payment, and fees	Action	Tab 5	Jonathan Puente Jessical Leavitt
1:15	CJA 6-304. Grand jury panel	Action	Tab 6	Keri Sargent
1:25	<u>HR Policies:</u> <ul style="list-style-type: none"> • HR07-3. 7-hour annual leave accrual • HR07-20(3)(a). Leave bank definition • HR Definitions (45), HR13-1. Volunteering • HR08-2. Teleworking • HR03-4, 06-9, 17-5, 17-6, 17-7. Grievance period update • HR08-7. FLSA exempt time reporting 	Action	Tab 7	Bart Olsen Jeremy Marsh
1:50	Technology report/proposals	Discussion		Brody Arishita
1:55	Old Business/New Business			
2:00	Adjourn			

2024 Meetings:

February 2, 2024	August 2, 2024
March 1, 2024	September 6, 2024
April 5, 2024	October 4, 2024
May 17, 2024	November 1, 2024
June 7, 2024	December 6, 2024
July 5, 2024	

TAB 1

Minutes

January 5, 2024

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

Webex video conferencing
January 5, 2024 – 12 p.m.

DRAFT

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Samuel Chiara, <i>Chair</i>	•		Keri Sargent Paul Barron Bryson King Shane Bahr
Judge Suchada Bazzelle		•	
Judge Jon Carpenter	•		STAFF: Keisa Williams Brody Arishita Minhvan Thach
Judge Michael DiReda	•		
Judge James Gardner	•		

(1) Welcome and approval of minutes:

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the December 1, 2023, meeting. With no changes, Judge DiReda moved to approve the minutes as presented. Judge Carpenter seconded the motion. The motion passed unanimously.

(2) CJA 3-101. Judicial performance standards.

The public comment period for CJA 3-101 closed on January 4, 2024. No comments were received. The proposed amendments are intended to provide clarity regarding case under advisement performance standards and reporting terms. Following a discussion, the committee did not make any additional amendments.

With no further discussion, Judge Gardner moved to recommend to the Judicial Council that CJA rule 3-101 be approved as final with an effective date of May 1, 2024. Judge DiReda seconded the motion. The motion passed unanimously.

(3) CJA 3-201. Court commissioners.

Currently, rule 3-201 creates standing commissioner nominating committees in each judicial district with three-year member terms. Because commissioners are appointed so rarely, and there will now be both domestic and criminal commissioners, the proposed amendments eliminate standing committees. New nominating committees would be created each time a commissioner vacancy needs to be filled. Paragraph (3)(C) accounts for the development of a joint committee when court commissioners would serve more than one district, making paragraph (3)(D) unnecessary.

The committee made the following minor corrections to ensure paragraph (3)(C) adequately addresses the procedures for joint nominating committees:

- Added parenthetical (s) to presiding judge, district, and designee throughout paragraph (3)(C) (lines 41, 42, 44, 46, 49, and 50)

Following further discussion, Judge Gardner moved to recommend to the Judicial Council that CJA rule 3-201 be approved for a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.

(4) CJA 1-201. Judicial Council membership – election.

The proposed amendments add a Business and Chancery Court (BCC) judge to the Judicial Council. Under 78A-2-104, Council members must be elected by the judges in their respective court level. Given that, the sole BCC judge may not be exempt from the election requirement and will simply have to elect themselves when necessary.

Following a discussion, Judge Gardner moved to recommend to the Judicial Council that CJA 1-201 be published for a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.

Technology report/proposals:

Appendix F. Utah Court Records Retention Schedule.

The Technology Advisory Subcommittee recommends adoption of the proposed amendments to Appendix F of the Code of Judicial Administration, overhauling the email use and retention policy. Most of the amendments update email use and storage policies to account for current technology. The remaining amendments address retention. All active employee email accounts are vaulted, but the AOC must purchase licenses to retain accounts permanently. The amendments clarify what happens to accounts when an employee resigns or is terminated and at what point email records are transferred to the Utah Division of Archives and Records Service. The default retention period for senior level employees and judicial officers will be seven (7) years and one (1) year for all other employees.

Following a discussion, the committee changed “Department” to “IT Department” in line 311 for clarity purposes. Appendix F does not require a 45-day public comment period.

With no further discussion, Judge DiReda moved to recommend to the Judicial Council that Appendix F of the Code of Judicial Administration be approved as final with an effective date of May 1, 2024. Judge Gardner seconded the motion. The motion passed unanimously.

Old Business/New Business:

The committee determined that the May and November meetings will change to the regular 12 p.m. – 2 p.m. schedule. The May 3, 2024 meeting will be moved to May 17, 2024 due to a conflict with the District Court Judges Conference the week of April 30-May 3.

Adjourn: With no further items for discussion, the meeting adjourned at 1 p.m. The next meeting will be held on February 2, 2024, at noon via Webex video conferencing.

TAB 2

Back from Public Comment:

CJA 3-104. Presiding judges

Notes: The proposed amendments replace the definition of case under advisement with a reference to the criteria in CJA 3-101 and require state level administrators to report to the Management Committee if they determine a judge has willfully failed to submit a monthly case under advisement report.

No public comments were received.

Rule 3-104. Presiding judges**Intent:**

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:**(1) Election and term of office.**

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

(2) Court organization.**(2)(A) Court en banc.**

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) **Absence of presiding judge.** When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

(3) **Administrative responsibilities and authority of presiding judge.**

(3)(A) **General—Caseload—Appeals**

(3)(A)(i) **Generally.** The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) **Caseload.** Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) **Appeals.** Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) **Coordination of judicial schedules.**

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) Authority to appoint senior judges.

(3)(C)(i) The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

(3)(C)(ii) The presiding judge will notify the State Court Administrator or designee when a senior judge assignment has been made.

(3)(D) Court committees. The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(E) Outside agencies and the media.

(3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(F) Docket management and case and judge assignments.

(3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

151 (3)(G) **Court executives.**

152
153 (3)(G)(i) The presiding judge shall review the proposed appointment of the court
154 executive made by the State Court Administrator and must concur in the
155 appointment before it will be effective. The presiding judge shall obtain the
156 approval of a majority of the judges in that jurisdiction prior to concurring in the
157 appointment of a court executive.

158
159 (3)(G)(ii) The presiding judge for the respective court level and the state level
160 administrator shall jointly develop an annual performance plan for the court
161 executive.

162
163 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding
164 judge in the preparation of an evaluation of the court executive's performance for
165 the previous year, also taking into account input from all judges in the district.

166
167 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the
168 court executive, including coordination of annual leave.

169
170 (3)(G)(v) Pursuant to Council policy and the direction of the state level
171 administrator, the court executive has the responsibility for the day-to-day
172 supervision of the non-judicial support staff and the non-judicial administration of
173 the court. The presiding judge, in consultation with the judges of the jurisdiction,
174 shall coordinate with the court executive on matters concerning the support staff
175 and the general administration of the court including budget, facility planning,
176 long-range planning, administrative projects, intergovernmental relations and
177 other administrative responsibilities as determined by the presiding judge and the
178 state level administrator.

179
180 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of
181 courtrooms and facilities.

182
183 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in
184 consultation with the presiding judge, shall:

185
186 (3)(I)(i) coordinate the compilation of management and statistical information
187 necessary for the administration of the court;

188
189 (3)(I)(ii) establish policies and procedures and ensure that court personnel are
190 advised and aware of these policies;

191
192 (3)(I)(iii) approve proposals for automation within the court in compliance with
193 administrative rules.

194
195 (3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall
196 oversee the development of the budget for the court. In contract sites, the court
197 executive shall supervise the preparation and management of the county budget for the
198 court on an annual basis and in accordance with the Utah Code.

199
200 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court
201 fails to comply with a reasonable administrative directive of the presiding judge,

interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(L) Cases under advisement.

(3)(L)(i) A case is considered to be under advisement ~~when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" is defined as follows: if it meets the criteria outlined in rule 3-101.~~

~~(3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;~~

~~(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or~~

~~(3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.~~

~~A case is no longer under advisement when the judge makes a decision on the issue that is under advisement or on the entire case.~~

~~The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision,~~

~~regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.~~

(3)(L)(ii) Once a month, each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

~~(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Management Committee.~~

(3)(L)(iv) If a judge fails to submit a statement required under (3)(L)(ii), the presiding judge shall notify the appropriate state level administrator. If ~~a judge~~ the state level administrator determines that a judge has willfully failed to submit a statement ~~for two consecutive months~~, the state level administrator shall notify the Management Committee.

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

Effective May 1, 2024

TAB 3

CJA 1-305. Board of Senior Judges

CJA 3-104. Presiding judges

CJA 3-108. Judicial assistance

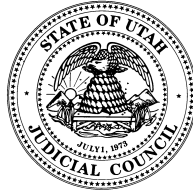
CJA 3-111. Performance evaluations

CJA 3-113. Senior judges

CJA 3-403. Judicial branch education

CJA 3-501. Insurance benefits upon retirement

Notes: See attached memo



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

19:40

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court
Administrator

MEMORANDUM

TO: Policy, Planning & Technology Committee

FROM: Hon. Kate Appleby, Senior Judge
Neira Siaperas, Deputy State Court Administrator

RE: Senior Judge Program and Court Rules

The Utah Judiciary has a robust senior judge program with a current roster of 32 active senior judges and 23 inactive senior judges. Active senior judges provide case coverage for all court levels and have been instrumental in the efforts to reduce the backlog of cases pending in the district court.

The Code of Judicial Administration directs the work of senior judges, including the required qualifications, authority, terms, performance, compensation, and appointment procedures. The Board of Senior judges and the Administrative Office of the Courts (AOC) have been reviewing the program and court rules relevant to senior judges with the goal of improving the program and support for senior judges, streamlining processes, and clarifying and aligning court rules.

The most substantive proposed changes to court rules and the senior judge program are summarized below. The Management Committee, boards of judges, trial court executives, and senior judges have reviewed proposed revisions and provided input.

Court Rules

UCJA Rule 1-305 Board of Senior Judges

- ❖ Expanded membership of the Board to include senior justice court judges
- ❖ Revised the term lengths and the required number of meetings of the Board

UCJA Rule 3-104 Presiding Judges

- ❖ Removed the section on executing the notice of senior judge appointment

UCJA Rule 3-108 Judicial Assistance

- ❖ Added water law cases to the criteria for transferring or assigning senior judges
- ❖ Clarified and simplified considerations for assigning senior judges

UCJA Rule 3-111 Performance Evaluations

- ❖ Removed references to senior judges as the processes to evaluate performance of senior judges were incorporated in rule 11-201

UCJA Rule 3-113 Senior Judges

- ❖ Added a requirement for the AOC to provide a new senior judge orientation
- ❖ Expanded responsibilities of the court executives in providing support for senior judges

UCJA Rule 3-403 Judicial Branch Education

- ❖ Clarified that “annually” refers to the fiscal rather than the calendar year
- ❖ Revised and simplified education requirements for active and inactive senior judges

UCJA Rule 3-501 Insurance Benefits Upon Retirement

- ❖ Revised qualifications for incentive benefits

Revisions to two additional court rules will be presented to the Supreme Court:

UCJA Rule 11-201 Senior Judges (Supreme Court rule)

- ❖ Revised qualifications for appointment and reappointment of senior judges
- ❖ Established qualifications and process for reappointment of senior judges
- ❖ Clarified requirements for an active bar license
- ❖ Incorporated and revised standards of performance and evaluation processes from UCJA Rule 3-111, and created performance improvement procedures
- ❖ Clarified the role of the Judicial Council in the appointment and reappointment of senior judges
- ❖ Revised the terms of office for senior judges and the authority of inactive senior judges

UCJA Rule 11-203 Senior Justice Court Judges (Supreme Court rule)

- ❖ Aligned the changes with Rule 11-201

Senior Judge Program

The most significant changes to the senior judge program involve increasing the support for senior judges by implementing a new senior judge orientation and expanding local training and support in districts. The new senior judge orientation will include information on judicial assignments, forms, compensation, training, and incentive benefits for senior judges. Local training in districts will include information on district practices, case management systems, and local expectations.

Additional changes to the program include:

- ❖ Revised performance evaluation and surveys of attorneys, presiding judges, and court staff
- ❖ New application for reappointment that will align with the revised rules and require active senior judges to declare whether they volunteered for a minimum of two cases per year
- ❖ New compensation structure for senior judges who participate on court committees and projects
- ❖ Implementation of electronic payment and reimbursement forms

**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

Rule 1-305. Board of Senior Judges.**Intent:**

To establish a Board of Senior Judges consisting of ~~senior justices and~~ senior judges of courts of record and senior justice court judges.

To prescribe the composition of the Board's membership, the method of selection of Board members, the members' terms of office, the Board's officers, the procedures to be followed in the event of vacancies, the frequency of Board meetings, and the procedures to be followed in the conduct of Board meetings.

To increase the level of participation of ~~senior justices and~~ senior judges in the development of policy for the judiciary.

To improve communication between the Council and ~~senior justices and~~ senior judges.

Applicability:

This rule shall apply to the Board of Senior Judges.

Statement of the Rule:

(1) For purposes of this rule, "senior judge" includes active senior justices, active senior judges of courts of record, and active senior justice court judges~~means active senior justice or active senior judge~~.

(2) Board of senior judges.

(2)(A) **Establishment.** There is established a Board of Senior Judges.

(2)(B) **Membership.** The Board shall be comprised of ~~five-six~~ active senior judges, elected at the annual judicial conference senior judge business meeting, by all senior judges who are in attendance. Contingent upon availability of active senior judges, each court level (appellate, juvenile, district, and justice) shall have a minimum of one member of the Board.

(2)(C) **Election.** The senior judges present at the business meeting shall constitute a quorum. Nominations for Board positions may be made by any senior judge. All senior judges present at the meeting shall be entitled to vote for members of the Board.

(2)(D) **Terms.** The terms of the Board members shall be ~~two-years~~three years. A Board member shall not serve more than two consecutive terms and the remainder of a predecessor's term.

(2)(E) **Vacancies.** If a vacancy occurs for any reason on the Board, the Board shall elect a replacement for the unexpired term of the vacancy.

(3) Board officers.

(3)(A) **Establishment.** There shall be a chair and vice-chair of the Board. Both the chair and vice chair shall be active senior judges.

(3)(B) **Election.** The chair and vice~~-~~chair shall be elected by the Board members.

(3)(C) **Chair and vice~~-~~chair's term.** The chair and vice-chair shall be elected to serve ~~a one~~two-year terms~~s~~, effective immediately after the annual judicial conference. The year

39 following election, ~~as the vice-chair shall assume the chair position. A new vice-chair~~
40 ~~shall be appointed each year.~~

41 (3)(D) **Chair and vice-chair's responsibilities.** The chair shall preside over all
42 meetings of the Board and the annual judicial conference senior judge business
43 meeting, and shall perform other duties as set forth in this Code and as directed by the
44 Board. The vice-chair shall serve as chair in the absence of the chair or at the request of
45 the chair.

46 (3)(E) **Vacancy in office of chair or vice-chair.** ~~In the event that~~If the chair resigns or
47 leaves the Board for any reason, the vice-chair shall become chair, serving both the
48 unexpired term of the chair and the full term as chair. ~~In the event that~~If the vice-chair
49 resigns from the Board for any reason, a new vice-chair shall be elected by the Board
50 from among its members to serve the unexpired term of the vice-chair and to succeed as
51 chair as otherwise provided in this rule. Voting and replacement of the vice-chair may
52 be conducted by e-mail if a replacement is needed before the next annual judicial
53 conference.

54 (3)(F) **Secretariat services.** The Administrative Office shall serve as secretariat to the
55 Board.

56 (3)(G) **Board responsibility.** The Board shall exercise such authority and assume such
57 responsibility as delegated by the Council.

58 **(4) Meetings of the Board.**

59 (4)(A) The Board shall meet a minimum of twice a year and otherwise as determined by
60 the chair. One of the meetings shall be a combined Board and Bench meeting
61 conducted during the annual Judicial Conference. The Board shall meet not less than
62 once a year to transact any and all business that is within its jurisdiction.

63 (4)(B) The Board shall rule by majority vote. All Board members have the right to vote.
64 Three-Four members of the Board constitute a quorum.

65 *Effective: ~~June 28~~May 1, 2024*

Rule 3-104. Presiding judges**Intent:**

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:**(1) Election and term of office.**

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

(2) Court organization.**(2)(A) Court en banc.**

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) **Absence of presiding judge.** When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

(3) **Administrative responsibilities and authority of presiding judge.**

(3)(A) **General—Caseload—Appeals**

(3)(A)(i) **Generally.** The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) **Caseload.** Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) **Appeals.** Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) **Coordination of judicial schedules.**

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) **Authority to appoint senior judges.** ~~(3)(C)(i)~~ The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

~~(3)(C)(ii) The presiding judge will notify the State Court Administrator or designee when a senior judge assignment has been made.~~

(3)(D) **Court committees.** The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(E) **Outside agencies and the media.**

(3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(F) **Docket management and case and judge assignments.**

(3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

(3)(G) **Court executives.**

(3)(G)(i) The presiding judge shall review the proposed appointment of the court executive made by the State Court Administrator and must concur in the appointment before it will be effective. The presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring in the appointment of a court executive.

(3)(G)(ii) The presiding judge for the respective court level and the state level administrator shall jointly develop an annual performance plan for the court executive.

(3)(G)(iii) Annually, the state level administrator shall consult with the presiding judge in the preparation of an evaluation of the court executive's performance for the previous year, also taking into account input from all judges in the district.

(3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the court executive, including coordination of annual leave.

(3)(G)(v) Pursuant to Council policy and the direction of the state level administrator, the court executive has the responsibility for the day-to-day supervision of the non-judicial support staff and the non-judicial administration of the court. The presiding judge, in consultation with the judges of the jurisdiction, shall coordinate with the court executive on matters concerning the support staff and the general administration of the court including budget, facility planning, long-range planning, administrative projects, intergovernmental relations and other administrative responsibilities as determined by the presiding judge and the state level administrator.

(3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of courtrooms and facilities.

(3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in consultation with the presiding judge, shall:

(3)(I)(i) coordinate the compilation of management and statistical information necessary for the administration of the court;

(3)(I)(ii) establish policies and procedures and ensure that court personnel are advised and aware of these policies;

(3)(I)(iii) approve proposals for automation within the court in compliance with administrative rules.

(3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall oversee the development of the budget for the court. In contract sites, the court executive shall supervise the preparation and management of the county budget for the court on an annual basis and in accordance with the Utah Code.

(3)(K) **Judicial officers.** In the event that another judge or commissioner of the court fails to comply with a reasonable administrative directive of the presiding judge, interferes with the effective operation of the court, abuses his or her judicial position,

exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(L) Cases under advisement.

(3)(L)(i) A case is considered to be under advisement ~~when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" is defined as follows: if it meets the criteria outlined in rule 3-101.~~

~~(3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;~~

~~(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or~~

~~(3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.~~

~~A case is no longer under advisement when the judge makes a decision on the issue that is under advisement or on the entire case.~~

~~The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.~~

(3)(L)(ii) Once a month, each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

~~(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Management Committee.~~

(3)(L)(iv) If a judge fails to submit a statement required under (3)(L)(ii), the presiding judge shall notify the appropriate state level administrator. If a judge the state level administrator determines that a judge has willfully failed to submit a statement ~~for two consecutive months~~, the state level administrator shall notify the Management Committee.

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

Effective May 1, 2024

Rule 3-108. Judicial assistance.**Intent:**

To establish the authority, procedure and criteria for judicial assistance.

Applicability:

This rule shall apply to judicial assistance provided by active senior judges and judges of courts of record.

Statement of the Rule:

(1) **Criteria for requesting assistance.** Judicial assistance shall be provided only for the following reasons:

(1)(A) when assistance is needed because of a judicial vacancy or an absence due to an illness, accident, or disability;

(1)(B) to prevent the occurrence of or to reduce a critical accumulated backlog;

(1)(C) to handle a particular case involving complex issues and extensive time which would have a substantial impact on the court's calendar;

(1)(D) to replace a sitting judge who is absent because of assignment as a tax judge, [water law judge](#), illness or to replace the judges in that location because of disqualification in a particular case;

(1)(E) to mentor a newly appointed judge;

(1)(F) to handle cases during vacation periods or during attendance at education programs by the sitting judge, following every effort by that judge to adjust the calendar to minimize the need for assistance and only to handle those matters which cannot be accommodated by the other judges of the court during the absence;

(1)(G) to provide education and training opportunities to judges of one court level in the disposition of cases in another court level;

(1)(H) in district court, to handle cases involving taxation, as defined in [Rule 6-103\(4\) of the Utah Code of Judicial Administration](#) and cases involving water, as defined in [rule 6-104](#);

(1)(I) to handle automatic expungement cases; and

(1)(J) to serve on a grand jury panel.

(2) Assigning a senior judge for judicial assistance.

(2)(A) Unless exigent circumstances occur, a presiding judge shall seek assistance under the priorities listed in paragraph (3) before assigning a senior judge.

(2)(B) If the assignment of a senior judge shall be for more than 14 judicial days, the presiding judge shall seek approval from the Management Committee, and present to the Management Committee a plan for meeting the needs of the court and a budget to implement the plan. The plan should describe the calendars to be covered by judges of

the district, judges of other districts, and senior judges. The budget should estimate the funds needed for travel by the judges and senior judges.

(3) Criteria for transferring or assigning judges. The transfer or assignment of judges for judicial assistance under this rule, shall, in general, be based upon the following priorities:

(3)(A) experience and familiarity with the subject matter, including, in district court cases involving taxation, as defined in ~~Rule 6-103(4) of the Utah Code of Judicial Administration, and cases involving water, as defined in rule 6-104~~ knowledge of the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation;

(3)(B) active judges before active senior judges with consideration of the following:

(3)(B)(i) ~~proximity to the court in need if the judicial assignment requires travel active judges from a court of equal jurisdiction in a different geographical division than the court in need, and who are in close proximity to that court;~~

(3)(B)(ii) ~~priority of judicial coverage by a judge from a court of equal jurisdiction; and active senior judges from a court of equal jurisdiction to the court in need and who are in close proximity to that court;~~

(3)(B)(iii) ~~priority of judicial coverage by a judge whose subject matter jurisdiction is most closely related to that of the court in need active judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is most closely related to that court and who are in close proximity to that court;~~

(3)(B)(iv) ~~active judges from a court of equal jurisdiction in a different geographical division than the court in need who are far removed from that court;~~

(3)(B)(v) ~~active or active senior judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is similar to that court and who are not in close proximity to that court;~~

(3)(C) availability;

(3)(D) expenses and budget.

(4) Assignment of active judges.

(4)(A) Any active judge of a court of record may serve temporarily as the judge of a court with equal jurisdiction in a different judicial district upon assignment by the presiding judge of the district in which the judge to be assigned normally sits or, in district court cases involving taxation, as defined in ~~Rule 6-103(4) of the Utah Code of Judicial Administration, and cases involving water, as defined in rule 6-104~~ assignment by the supervising tax judge or the supervising water judge with the approval of the presiding officer of the Council.

(4)(B) Any active judge of a court of record may serve temporarily as the judge of a court with different jurisdiction in the same or a different judicial district upon assignment by the presiding officer of the Council or assignment by the state court administrator or designee with the approval of the presiding officer of the Council.

(4)(C) The presiding officer of the Council may appoint a district or juvenile court presiding judge as the signing judge for automatic expungements and deferred traffic

prosecution orders in all district or juvenile courts within the presiding judge's district with jurisdiction over eligible cases. The length of the assignment may coincide with the judge's term as presiding judge.

(4)(D) The assignment shall be made only after consideration of the judge's calendar. The assignment may be for a special or general assignment in a specific court or generally within that level of court and shall be for a specific period of time, or for the duration of a specific case. Full time assignments in excess of 30 days in a calendar year shall require the concurrence of the assigned judge. The state court administrator or designee shall report all assignments to the Council on an annual basis.

(4)(E) Requests for the assignment of a judge shall be conveyed, through the presiding judge, to the person with authority to make the assignment under paragraphs (A) and (B). A judge who is assigned temporarily to another court shall have the same powers as a judge of that court.

(5) **Notice of assignments.** Notice of assignments made under this rule shall be made in writing, a copy of which shall be sent to the state court administrator or designee.

(6) **Schedule of trials or court sessions.** The state court administrator or designee, under the supervision of the presiding officer of the Council, may schedule trials or court sessions and designate a judge to preside, assign judges within courts and throughout the state, reassign cases to judges, and change the county for trial of any case if no party to the litigation files timely objections to the change.

Effective: ~~January~~ May 1, 2024

Rule 3-111. Performance evaluation of ~~active senior judges and~~ court commissioners.

Intent:

To establish a performance evaluation, including the criteria upon which ~~active senior judges and~~ court commissioners will be evaluated, the standards against which performance will be measured and the methods for fairly, accurately and reliably measuring performance.

To generate ~~and~~ to provide to ~~active senior judges and~~ court commissioners information about their performance.

To establish the procedures by which the Judicial Council will evaluate and certify ~~senior judges and~~ court commissioners for reappointment.

Applicability:

This rule shall apply to presiding judges, ~~the Board of Justice Court Judges and~~ the Judicial Council, and ~~to the active senior judges and~~ court commissioners ~~of the Court of Appeals, courts of record and courts not of record.~~

Statement of the Rule:

(1) Performance evaluations.

~~(1)(A) Court commissioners.~~

(1)(A)(i) On forms provided by the administrative office, the presiding judge of a district ~~or court level of which~~ a court commissioner serves shall complete an evaluation of the court commissioner's performance by ~~June~~ July 1 of each year. If a commissioner serves multiple districts or court levels, the presiding judge of each district ~~or court level~~ shall complete an evaluation.

(1)(BA)(ii) The presiding judge(s) shall survey judges and court personnel seeking feedback for the evaluation. During the evaluation period, the presiding judge(s) shall review at least five of the commissioner's active cases. The review shall include courtroom observation.

(1)(CA)(iii) The presiding judge(s) shall provide a copy of each commissioner evaluation to the Judicial Council. Copies of plans under paragraph (3)(G) and all evaluations shall also be maintained in the commissioner's personnel file in the administrative office.

~~(1)(B) Active senior judges. An active senior judge's performance shall be evaluated by attorneys as provided in paragraph (3)(A) and by presiding judges and court staff as provided in paragraph (3)(B).~~

(2) Evaluation and certification criteria. ~~Active senior judges and~~ Court commissioners shall be evaluated and certified upon the following criteria:

(2)(A) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(2)(B) attentiveness to factual and legal issues before the court;

(2)(C) adherence to precedent and ability to clearly explain departures from precedent;

(2)(D) grasp of the practical impact on the parties of the commissioner's ~~or senior judge's~~ rulings, including the effect of delay and increased litigation expense;

(2)(E) ability to write clear judicial opinions;

(2)(F) ability to clearly explain the legal basis for judicial opinions;

(2)(G) demonstration of courtesy toward attorneys, court staff, and others in the commissioner's ~~or senior judge's~~ court;

(2)(H) maintenance of decorum in the courtroom;

(2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(2)(J) preparation for hearings or oral argument;

(2)(K) avoidance of impropriety or the appearance of impropriety;

(2)(L) display of fairness and impartiality toward all parties;

(2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions;

(2)(N) management of workload;

(2)(O) willingness to share proportionally the workload within the court or district, or regularly accepting assignments;

(2)(P) issuance of opinions and orders without unnecessary delay; and

(2)(Q) ability and willingness to use the court's case management systems in all cases.

(3) Standards of performance.

(3)(A) Survey of attorneys.

(3)(A)(i) The Council shall measure satisfactory performance by a sample survey of the attorneys appearing before the ~~active senior judge or~~ court commissioner during the period for which the ~~active senior judge or~~ court commissioner is being evaluated. The Council shall measure satisfactory performance based on the results of the final survey conducted during a court commissioner's term of office, subject to the discretion of a court commissioner serving an abbreviated initial term not to participate in a second survey under Section (3)(A)(vi) of this rule.

(3)(A)(ii) **Survey scoring.** The survey shall be scored as follows.

(3)(A)(ii)(a) Each question of the attorney survey will have six possible responses: Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No Personal Knowledge. A favorable response is Excellent, More Than Adequate, or Adequate.

(3)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable responses by the total number of all responses, excluding the "No Personal Knowledge" responses. A satisfactory score for a question is achieved when the ratio of favorable responses is 70% or greater.

(3)(A)(ii)(c) A court commissioner's performance is satisfactory if:

(3)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

(3)(A)(ii)(c)(2) the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

~~(3)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.~~

(3)(A)(iii) **Survey respondents.** The Administrative Office of the Courts shall identify as potential respondents all lawyers who have appeared before the court commissioner during the period for which the commissioner is being evaluated.

(3)(A)(iv) **Exclusion from survey respondents.**

(3)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under discipline shall not be a respondent in the survey.

(3)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may exclude an attorney from the list of respondents if the court commissioner believes the attorney will not respond objectively to the survey.

(3)(A)(v) **Number of survey respondents.** The Surveyor shall identify 180 respondents or all attorneys appearing before the court commissioner, whichever is less. ~~All attorneys who have appeared before the active senior judge shall be sent a survey questionnaire as soon as possible after the hearing.~~

(3)(A)(vi) **Administration of the survey.** Court commissioners shall be the subject of a survey approximately six months prior to the expiration of their term of office. Court commissioners shall be the subject of a survey during the second year of each term of office. Newly appointed court commissioners shall be the subject of a survey during the second year of their term of office and, at their option, approximately six months prior to the expiration of their term of office.

(3)(A)(vii) **Survey report.** The Surveyor shall provide to the subject of the survey, the subject's presiding judge(s), and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.

~~(3)(B) Non-attorney surveys.~~

~~(3)(B)(i) Surveys of presiding judges and court staff regarding non-appellate senior judges. The Council shall measure performance of active senior judges by a survey of all presiding judges and trial court executives, or in the justice courts, the Justice Court Administrator, of districts in which the senior judge has been assigned. The presiding judge and trial court executive will~~

gather information for the survey from anonymous questionnaires completed by court staff on the calendars to which the senior judge is assigned and by jurors on jury trials to which the senior judge is assigned. The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

~~(3)(B)(ii) Surveys of Court of Appeals presiding judge and clerk of court.~~ The Council shall measure performance of active appellate senior judges by a survey of the presiding judge and clerk of court of the Court of Appeals. The presiding judge and clerk of court will gather information for the survey from anonymous questionnaires completed by the other judges on each panel to which the appellate senior judge is assigned and by the appellate law clerks with whom the appellate senior judge works. The Administrative Office of the Courts shall distribute the survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

(3)(BC) Case under advisement standard.

(3)(BC)(i) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the ~~senior judge or~~ court commissioner for final determination. For purposes of this rule, "submitted to the ~~senior judge or~~ court commissioner" or "submission" is defined as follows:

(3)(BC)(i)(a) When a matter requiring attention is placed by staff in the ~~senior judge's or~~ court commissioner's personal electronic queue, inbox, personal possession, or equivalent;

(3)(BC)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or

(3)(BC)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the ~~senior judge's or~~ court commissioner's personal electronic queue, inbox, personal possession, or equivalent.

(3)(B)(ii) A case is no longer under advisement when the ~~senior judge or~~ court commissioner makes a decision on the issue that is under advisement or on the entire case.

(3)(BC)(iii) The Council shall measure satisfactory performance by the self-declaration of the ~~senior judge or~~ court commissioner or by reviewing the records of the court.

(3)(~~BC~~)(ivii) A ~~senior judge or~~ court commissioner in a trial court demonstrates satisfactory performance by holding:

(3)(~~BC~~)(ivii)(a) no more than three cases per calendar year under advisement more than two months after submission; and

(3)(~~BC~~)(ivii)(b) no case under advisement more than 180 days after submission.

~~(3)(C)(iv) A senior judge in the court of appeals demonstrates satisfactory performance by:~~

~~(3)(C)(iv)(a) circulating no more than an average of three principal opinions per calendar year more than six months after submission with no more than half of the maximum exceptional cases in any one calendar year; and~~

~~(3)(C)(iv)(b) achieving a final average time to circulation of a principal opinion of no more than 120 days after submission.~~

(3)(~~CD~~) **Compliance with education standards.** Satisfactory performance is established if the ~~senior judge or~~ court commissioner annually complies with the judicial education standards of this Code, subject to the availability of in-state education programs. The Council shall measure satisfactory performance by the self-declaration of the ~~senior judge or~~ court commissioner or by reviewing the records of the state court administrator.

(3)(~~DE~~) **Substantial compliance with Code of Judicial Conduct.** Satisfactory performance is established if the response of the ~~senior judge or~~ court commissioner demonstrates substantial compliance with the Code of Judicial Conduct, if the Council finds the responsive information to be complete and correct and if the Council's review of formal and informal sanctions lead the Council to conclude the court commissioner is in substantial compliance with the Code of Judicial Conduct. ~~Under Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from reappointment.~~

(3)(~~EF~~) **Physical and mental competence.** Satisfactory performance is established if the response of the ~~senior judge or~~ court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

(3)(~~EG~~) **Performance and corrective action plans for court commissioners.**

(3)(~~EG~~)(i) The presiding judge of the district a court commissioner serves shall prepare a performance plan for a new court commissioner within 30 days of the court commissioner's appointment. If a court commissioner serves multiple districts or court levels, the presiding judge of each district and court level shall prepare a performance plan. The performance plan shall communicate the expectations set forth in paragraph (2) of this rule.

(3)(~~EG~~)(ii) If a presiding judge issues an overall "Needs Improvement" rating on a court commissioner's annual performance evaluation as provided in paragraph (1), that presiding judge shall prepare a corrective action plan setting forth specific ways in which the court commissioner can improve in deficient areas.

(4) **Judicial Council certification process**

(4)(A) **July Council meeting.** At its meeting in July, the Council shall begin the process of determining whether the ~~senior judges and~~ court commissioners whose terms of office expire that year meet the standards of performance provided for in this rule. The Administrative Office of the Courts shall assemble all evaluation information, including:

(4)(A)(i) survey scores;

(4)(A)(ii) judicial education records;

(4)(A)(iii) self-declaration forms;

(4)(A)(iv) records of formal and informal sanctions;

(4)(A)(v) performance evaluations, if the ~~court~~ commissioner ~~or senior judge~~ received an overall rating of Needs Improvement; and

(4)(A)(vi) any information requested by the Council.

(4)(B) **Records delivery.** Prior to the meeting the Administrative Office of the Courts shall deliver the records to the Council and to the ~~senior judges and~~ court commissioners being evaluated.

(4)(C) **July Council meeting closed session.** In a session closed in compliance with ~~r~~Rule 2-103, the Council shall consider the evaluation information and make a preliminary finding of whether a ~~senior judge or~~ court commissioner has met the performance standards.

(4)(D) **Certification presumptions.** If the Council finds the ~~senior judge or~~ court commissioner has met the performance standards, it is presumed the Council will certify the ~~senior judge or~~ court commissioner for reappointment. If the Council finds the ~~senior judge or~~ court commissioner did not meet the performance standards, it is presumed the Council will not certify the ~~senior judge or~~ court commissioner for reappointment. The Council may certify the ~~senior judge or~~ court commissioner or withhold decision until after meeting with the ~~senior judge or~~ court commissioner.

(4)(E) **Overcoming presumptions.** A presumption against certification may be overcome by a showing that a ~~senior judge's or~~ court commissioner's failure to comply with paragraphs (3)(~~B~~~~G~~) and (3)(~~C~~~~D~~) were beyond the ~~senior judge's or~~ court commissioner's personal control. A presumption in favor of certification may be overcome by:

(4)(E)(i) reliable information showing non-compliance with a performance standard, except as otherwise provided in paragraph (4)(E); or

(4)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to demonstrate lack of substantial compliance with the Code of Judicial Conduct.

(4)(F) **August Council meeting.** At the request of the Council the ~~senior judge or~~ court commissioner challenging a non-certification decision shall meet with the Council in August. At the request of the Council the presiding judge(~~s~~) shall report to the Council any meetings held with the ~~senior judge or~~ court commissioner, the steps toward self-improvement identified as a result of those meetings, and the efforts to complete those

steps. Not later than 5 days after the July meeting, the Administrative Office of the Courts shall deliver to ~~the senior judge or~~ court commissioner being evaluated notice of the Council's action and any records not already delivered to the ~~senior judge or~~ court commissioner. The notice shall contain an adequate description of the reasons the Council has withheld its decision and the date by which the ~~senior judge or~~ court commissioner is to deliver written materials. The Administrative Office of the Courts shall deliver copies of all materials to the Council and to the ~~senior judge or~~ court commissioner prior to the August meeting.

(4)(G) **August Council meeting closed session.** At its August meeting in a session closed in accordance with ~~r~~Rule 2-103, the Council shall provide to the ~~senior judge or~~ court commissioner adequate time to present evidence and arguments in favor of certification. Any member of the Council may present evidence and arguments of which the ~~senior judge or~~ court commissioner has had notice opposed to certification. The burden is on the person arguing against the presumed certification. The Council may determine the order of presentation.

(4)(H) **Final certification decision.** At its August meeting in open session, the Council shall approve its final findings and certification regarding all ~~senior judges and~~ court commissioners whose terms of office expire that year.

(4)(I) **Communication of certification decision.** The Judicial Council shall communicate its certification decision to the ~~senior judge or~~ court commissioner and to the presiding judge(s) of the district(s) the commissioner serves. ~~The Judicial Council shall communicate its certification decision for senior judges to the Supreme Court and for court commissioners to the presiding judge of the district the commissioner serves.~~

Effective: ~~November~~ May 1, 20240

Rule 3-113. Senior judges.**Intent:**

To establish the responsibility to provide ~~for~~ support services for active senior judges.

To provide for the compensation of active senior judges.

Applicability:

This rule shall apply to judicial employees and to ~~senior judges and~~ active senior judges of courts of record.

Statement of the Rule:**(1) Support services.**

(1)(A) Orientation. The Administrative Office of the Courts shall provide a new senior judge orientation within three months of the appointment as active senior judge. The orientation shall include information on judicial assignments, forms, compensation, available training, and reappointment processes.

(1)(BA) Services. The court executive of the court in which an active senior judge is serving shall make available services as would normally be needed in the performance of a judge's official duties.

(1)(CB) Notice of appointment – assignment. The court executive of the court in which an active senior judge is serving shall execute the necessary notice of appointment for the case or matters to which the judge has been assigned. The order of assignment shall include the district the judge will serve, the court location, the assignment for which service is needed, and the signature and date of the presiding judge or the presiding judge's designee. The order shall be sent to the state court administrator or designee.

(1)(DC) Assistance. The court executive of the district in which an active senior judge serves shall provide the following assistance as needed:

(1)(D)(i) administrative services;

(1)(D)(ii) orientation on case management system, district processes, and equipment~~mail services~~;

(1)(D)(iii) access to electronic files, and court documents, and a computer;

(1)(D)(iv) travel arrangements; and

(1)(D)(v) preparation of reimbursement vouchers.

(2) Compensation. Active senior judges shall be compensated at the rate and for the services and duties as set forth herein.

(2)(A) Compensation for the performance of judicial duties related to the assignment of cases, service on a grand jury panel, service on court committees, service on court projects, rules and policies, or the mentoring of a new judge shall be at an hourly rate equal to the hourly rate of a district trial court judge, and shall be paid in half-day increments.

(2)(B) Compensation for all other duties, such as attendance at Board meetings, ~~committee meetings,~~ and educational functions required by ~~this Code~~court rules shall be

paid at the rate of \$50.00 per half day (1-4 hours) and \$100.00 per full day (over 4 hours).

(2)(C) For travel required in the performance of judicial duties related to assigned cases or calendars, senior judges shall be compensated for travel time in excess of one and one-half hours round trip at the hourly rate of a district trial court judge, and for expenses, e.g., per diem, mileage, and lodging, at the rates allowed for state employees. Active senior judges are required, as court employees, to complete the Defensive Driver Training every two years.

(2)(D) For travel required in the performance of judicial duties not related to an assigned case, senior judges shall be compensated:

(2)(D)(i) for round-trip travel time as follows:

(2)(D)(i)(a) 0 - 1.5 hours: No payment

(2)(D)(ii)(b) 1.5 - 5.5 hours: \$25.00

(2)(D)(iii)(c) More than 5.5 hours: \$50.00

(2)(D)(ii) ~~and~~ for expenses, e.g., per diem, mileage, and lodging, at the rates allowed for state employees.

(2)(E) Because senior judges do not have access to state vehicles, mileage shall be paid at the higher rate ~~for state employees~~ according to the state travel policy.

(2)(~~FE~~) Except for the incentive benefit in Rule 3-501, compensation shall not include any form of benefits, i.e., state retirement contributions, medical or life insurance premiums, etc.

Effective: ~~June 28~~ May 1, 2024

Rule 3-403. Judicial branch education.**Intent:**

To establish the Judicial Branch Education Committee's ("Committee") responsibility to develop and evaluate a comprehensive education program for all judicial officers and court staff.

To establish education standards for judicial officers and court staff, including provisions for funding and accreditation for educational programs.

To ensure that education programs, including opportunities for job orientation, skill and knowledge acquisition, and professional and personal development, are available to all members of the judicial branch and that such programs utilize the principles of adult education and focus on participative learning.

To emphasize the importance of participation by all judicial branch employees in education and training as an essential component in maintaining the quality of justice in the Utah courts.

Applicability:

This rule shall apply to all judicial officers and court staff, except seasonal employees and law clerks.

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

(1)(A) **Judicial branch education committee.** The Committee shall submit to the Council for approval proposed policies, standards, guidelines, and procedures applicable to all judicial branch education activities. It shall evaluate and monitor the quality of educational programs and make changes where appropriate within the approved guidelines for funding, attendance, and accreditation.

(1)(B) **Responsibilities of members.** Committee members shall propose policies and procedures for developing, implementing, and evaluating orientation, continuing skill development, and career enhancement education opportunities for all judicial branch employees; formulate an annual education plan and calendar consistent with the judicial branch education budget; and serve as advocates for judicial branch education, including educating the judiciary about the purpose and functions of the Committee.

(1)(C) Committee meetings.

(1)(C)(i) The Committee shall meet twice a year. Additional meetings may be called as necessary. A majority of voting members in attendance is required for official Committee action.

(1)(C)(ii) The chairperson may recommend to the Council that a Committee member be replaced if that member is absent without excuse from two consecutive Committee meetings or fails to meet the responsibilities of membership as outlined in paragraph (1)(B).

(2) Administration.

Judicial Education Officer. The Judicial Education Officer, under the direction of the Court Administrator, shall serve as staff to the Committee and be responsible for the administration of the judicial education program consistent with this rule.

(3) **Education standards for judicial officers.**

(3)(A) **Requirements for judicial officers (judges, court commissioners, active senior judges and active senior justice court judges).**

(3)(A)(i) All new judicial officers shall participate in the first designated orientation program offered after the date the judge is administered the oath of office, unless attendance is excused for good cause by the Management Committee.

All judicial officers shall complete 30 hours of pre-approved education annually each fiscal year, to be implemented on a schedule coordinated by the Committee. To satisfy annual program requirements judicial officers will complete training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.

Judicial officers may attend a combination of approved local, state, or national programs. Active and inactive senior judges and retired judges may attend approved local or state programs and the annual judicial conference, but an inactive senior judge or retired judge must pay all expenses.

~~(3)(A)(ii) **Active senior judge.** If an active senior judge applies to be reappointed and will have completed at least 60 total education hours in the two years preceding the effective date of reappointment, the Management Committee may, for good cause shown, excuse the judge from having to complete the annual 30 hour education requirement.~~

(3)(A)(iii) **Inactive senior judges and retired judges.** If an inactive senior judge or a retired judge applies to be an active senior judge, the judge shall demonstrate that:

~~(3)(A)(iii)(a) less than three years has passed since he or she last complied with the continuing education requirements of an active senior judge;~~

~~(3)(A)(iii)(b) he or she has complied with the MCLE requirements of the Utah State Bar for at least three years before the application;~~

(3)(A)(iii)(~~ae~~) he or she has attended 30 hours of approved judicial education within one year before the application; or

(3)(A)(ii~~ai~~)(~~bd~~) he or she has attended the new judge orientation for judges of the courts of record within one year before the application.

(3)(B) **Program components.** Education programs for judicial officers shall include: a mandatory new judge orientation program; a variety of programs addressing substantive and procedural law topics, aimed at skill and knowledge acquisition; and programs geared to professional and personal development, to meet the continuing needs of judicial officers.

(3)(C) **Annual conferences.** Justice court judges and active senior justice court judges shall attend the annual justice court conference unless excused by the Board of Justice Court Judges for good cause. Because the annual judicial conference represents the

only opportunity for judges to meet and interact as a group and to elect their representatives, judicial officers are strongly encouraged to attend that conference.

(4) Standards for court staff.

(4)(A) State employees.

(4)(A)(i) Program requirements. All court staff employed by the state shall complete 20 hours of approved coursework annually. To satisfy annual program requirements state employees must complete training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.

(4)(A)(ii) Program components. Education programs for court staff employed by the state shall include: onboarding for new employees as well as new employee orientation; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth within the organization.

(4)(B) Local government employees.

(4)(B)(i) Program requirements. All court staff employed by the justice courts shall complete 10 hours of approved coursework annually.

(4)(B)(ii) Program components. Education programs for court staff employed by local government shall include: annual training seminar; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth. Professional and personal development programs may include training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.

(5) Reporting.

(5)(A) Judicial officers and court staff governed by these standards shall report participation in education programs on a form developed by the Committee.

(5)(B) For court staff, compliance with judicial branch education standards shall be a performance criterion in the evaluation of all staff.

(5)(B)(i) Supervisory personnel are responsible to ensure that all staff have an opportunity to participate in the required education. Failure of a supervisor to meet the minimum education standards or to provide staff with the opportunity to meet minimum education standards will result in an unsatisfactory performance evaluation in the education criterion.

(5)(B)(ii) Failure of staff to meet the minimum education requirements will result in an unsatisfactory evaluation on the education criterion unless the employee provides documented reasons that the employee's failure to meet the education standards is due to reasons beyond the employee's control.

(6) Credit. Judicial education procedures shall include guidelines for determining which programs qualify as approved education within the meaning of these standards.

(7) Funding.

(7)(A) **Budget.** In preparing its annual request for legislative appropriations, the Council shall receive and consider recommendations from the Committee. The Committee's annual education plan shall be based upon the Council's actual budget allocation for judicial education.

(7)(B) **In-state education programs.** Judicial branch funds allocated to in-state judicial education shall first be used to support mandatory in-state orientation programs for all judicial branch employees and then for other education priorities as established by the Committee with input from the Boards of Judges and Administrative Office.

(7)(C) **Out-of-state education programs.** To provide for diverse educational development, to take advantage of unique national opportunities, and to utilize education programs which cannot be offered in-state, the annual education plan shall include out-of-state education opportunities. The Committee shall approve national education providers and shall include in the education procedures, criteria to be applied by the Administrative Office to out-of-state education requests. Criteria shall include relevance to the attendee's current assignment and attendance at in-state programs. Disagreement with a decision to deny an out-of-state education request may be reviewed by a quorum of the Committee at the applicant's request.

(7)(D) **Tuition, fees, and travel.** The Committee shall develop policies and procedures for paying tuition, fees, per diem, and travel for approved programs. State funds cannot be used to pay for discretionary social activities, recreation, or spouse participation. The Committee may set financial limits on reimbursement for attendance at elective programs, with the individual participant personally making up the difference in cost when the cost exceeds program guidelines.

(8) Mentoring.

(8)(A) Within seven business days after a new district or juvenile judge has been sworn in, the Presiding Judge shall appoint a mentor to the new judge.

(8)(B) Within fourteen business days after a new district or juvenile judge has been sworn in, the mentor and the new judge shall meet and review the Judicial Mentoring Guidelines and Best Practices Recommendations, complete the Mentors' Checklist contained therein and the mentor, within that same fourteen business day period, shall provide the completed Mentor's Checklist to the Judicial Education Officer.

Effective: May 1, 2024

Rule 3-501. Insurance Benefits Upon Retirement.**Intent:**

To establish uniform policies regarding sick leave for justices, judges, [active senior judges of courts of record](#), and court commissioners and conversion of sick leave to paid up medical, dental and life insurance at the time of retirement.

Applicability:

This rule shall apply to all justices, judges, [active senior judges of courts of record](#), and court commissioners of courts of record.

Statement of the Rule:**(1) Earned benefits.**

(1)(A) For each year of full-time employment that a justice, judge, or court commissioner uses less than four days of sick leave in a calendar year, the judge, justice, or court commissioner will be eligible for and accumulate eight months of paid up medical insurance, dental insurance, prescription drug insurance and life insurance benefits at the time of retirement. Upon retirement, the submission of an annual application and a showing that the judge, justice, or court commissioner is not otherwise covered by a comparable medical insurance policy, the judge, justice, or court commissioner shall be eligible for and receive the insurance benefits which have accrued.

(1)(B) Maternity leave and parental leave is considered sick leave for determining benefits under this rule.

(1)(C) Medical and dental insurance coverage provided will be the same as that carried by the justice, judge, or court commissioner at retirement, i.e., family, two party, single.

(2) Automatic benefits. Notwithstanding the provisions of paragraph (1), a justice, judge, or court commissioner who retires and who is eligible for retirement benefits at the time of retirement shall receive a maximum of five years medical insurance, dental insurance, prescription drug insurance and life insurance.

(3) Duration of benefits.

(3)(A) The duration of benefits shall be calculated from the effective date of the justice's, judge's or court commissioner's retirement. Earned benefits shall not exceed seven years. Automatic benefits shall not exceed five years. Earned benefits and automatic benefits shall not exceed seven years.

(3)(B) Earned benefits and automatic benefits shall terminate when the justice, judge, or commissioner is eligible for Medicare, except that prescription drug insurance and supplemental Medicare insurance shall continue for the balance of the term of earned or automatic benefits.

(3)(C) If the spouse of the justice, judge, or court commissioner qualifies for medical insurance, prescription drug insurance or dental insurance under subsection (1)(C), such insurance shall continue for the period of earned or automatic benefits or until the spouse becomes eligible for Medicare, whichever is earlier, except that prescription drug insurance and supplemental Medicare insurance for the spouse shall continue for the balance of the term of earned or automatic benefits.

(3)(D) Earned or automatic benefits for dependents, other than a spouse, of the justice, judge, or court commissioner terminate when the justice, judge, or court commissioner reaches age 65.

(4) Sick leave. As authorized by Utah Code Section 78A-2-107(9), the state court administrator or designee will develop methods for recording sick leave use by justices, judges, and court commissioners and for recording sick leave conversion to paid up medical, dental and life insurance benefits.

(5) Active senior judge incentive benefit.

(5)(A) The judiciary will pay 50% of the cost of medical and dental insurance premiums for a qualifying active senior judge and spouse until the qualifying active senior judge is age 65. The judiciary will pay 50% of the cost of supplemental Medicare insurance and prescription drugs for a qualifying active senior judge and spouse if the active senior judge is age 65 or older.

(5)(B) To qualify for the incentive benefit the active senior judge must:

(5)(B)(i) qualify as an active senior judge pursuant to Rule 11-201;

(5)(B)(ii) have exhausted the earned and automatic benefits provided for by this rule;

(5)(B)(iii) submit to the state court administrator or their designee ~~on or before July 1 of each year~~ a letter expressing an intent to participate in the incentive benefit program;

(5)(B)(iv) ~~perform case work, subject to being called~~ comply with qualifications for reappointment as outlined in rule 11-201 during the active senior judge's term of appointment; and

(5)(B)(v) show good cause to the Judicial Council why the active senior judge should not be disqualified for the incentive benefit if the active senior judge ~~has turned down case assignments and~~ has not performed case work for two or more fiscal years.

(5)(C) The State Retirement Office shall deduct from the active senior judge's retirement benefit the portion of the cost payable by the active senior judge.

(6) Inactive status. If an active senior judge who receives the incentive benefit changes to inactive status, the senior judge shall notify the state court administrator or designee in writing that the active senior judge has converted to inactive status and is receiving the incentive benefit. The state court administrator or designee shall notify Human Resources and URS of the change in status.

(7) This policy will be implemented subject to availability of funds.

Effective: ~~May 1~~ June 28, 2024

TAB 4

CJA 1-205. Standing and ad hoc committees

Notes: The proposed amendments add community voices to the following Judicial Council standing committees:

- Judicial Branch Education Committee (lines 102-103)
- Court Facility Planning Committee (lines 123-124)
- Committee on Children and Family Law (lines 152-153)
- Committee on Judicial Outreach (lines 189-190)
- Committee on Resources for Self-represented Parties (lines 223-224)
- Language Access Committee (lines 252-253)
- Guardian ad Litem Oversight Committee (lines 263-264)
- Committee on Pretrial Release and Supervision (lines 323-324)
- Committee on Court Forms (lines 359-360)
- Committee on Fairness and Accountability (lines 380-381)

Rule 1-205. Standing and Ad Hoc Committees.**Intent:**

To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.

To establish uniform terms and a uniform method for appointing committee members.

To provide for a periodic review of existing committees to assure that their activities are appropriately related to the administration of the judiciary.

Applicability:

This rule shall apply to the internal operation of the Council.

Statement of the Rule:**(1) Standing Committees.**

(1)(A) **Establishment.** The following standing committees of the Council are hereby established:

(1)(A)(i) Uniform Fine Committee;

(1)(A)(ii) Ethics Advisory Committee;

(1)(A)(iii) Judicial Branch Education Committee;

(1)(A)(iv) Court Facility Planning Committee;

(1)(A)(v) Committee on Children and Family Law;

(1)(A)(vi) Committee on Judicial Outreach;

(1)(A)(vii) Committee on Resources for Self-represented Parties;

(1)(A)(viii) Language Access Committee;

(1)(A)(ix) Guardian ad Litem Oversight Committee;

(1)(A)(x) Committee on Model Utah Civil Jury Instructions;

(1)(A)(xi) Committee on Model Utah Criminal Jury Instructions;

(1)(A)(xii) Committee on Pretrial Release and Supervision; and

(1)(A)(xiii) Committee on Court Forms;

(1)(A)(xiv) Committee on Judicial Fairness and Accountability; and

(1)(A)(xv) Working Interdisciplinary Network of Guardianship Stakeholders
(WINGS)

(1)(B) Composition.

(1)(B)(i) The **Uniform Fine Committee** performs the duties described in rule 4-302 and shall consist of:

(1)(B)(i)(a) one district court judge who has experience with a felony docket;

(1)(B)(i)(b) three district court judges who have experience with a misdemeanor docket; and

(1)(B)(i)(c) four justice court judges.

(1)(B)(ii) The **Ethics Advisory Committee** performs the duties described in rule 3-109 and shall consist of:

(1)(B)(ii)(a) one judge from the Court of Appeals;

(1)(B)(ii)(b) one district court judge from Judicial Districts 2, 3, or 4;

(1)(B)(ii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;

(1)(B)(ii)(d) one juvenile court judge;

(1)(B)(ii)(e) one justice court judge; and

(1)(B)(ii)(f) an attorney from either the Bar or a college of law.

(1)(B)(iii) The **Judicial Branch Education Committee** performs the duties described in rule 3-403 shall consist of:

(1)(B)(iii)(a) one judge from an appellate court;

(1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;

(1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;

(1)(B)(iii)(d) one juvenile court judge;

(1)(B)(iii)(e) the education liaison of the Board of Justice Court Judges;

(1)(B)(iii)(f) one state level administrator;

(1)(B)(iii)(g) the Human Resource Management Director;

(1)(B)(iii)(h) one court executive;

(1)(B)(iii)(i) one juvenile court probation representative;

(1)(B)(iii)(j) two court clerks from different levels of court and different judicial districts;

(1)(B)(iii)(k) one data processing manager; ~~and~~

(1)(B)(iii)(l) one adult educator from higher education; ~~and~~

(1)(B)(iii)(m) two community representatives who are knowledgeable about the needs of self-represented litigants; and

(1)(B)(iii)(~~nm~~) The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.

(1)(B)(iv) The **Court Facility Planning Committee** performs the duties described in rule 3-409 and shall consist of:

(1)(B)(iv)(a) one judge from each level of trial court;

(1)(B)(iv)(b) one appellate court judge;

(1)(B)(iv)(c) the state court administrator;

(1)(B)(iv)(d) a trial court executive;

(1)(B)(iv)(e) two business people with experience in the construction or financing of facilities; ~~and~~

(1)(B)(iv)(f) two community representatives who are knowledgeable about the needs of self-represented litigants; and

(1)(B)(iv)(~~gf~~) the court security director.

(1)(B)(v) The **Committee on Children and Family Law** performs the duties described in rule 4-908 and shall consist of:

(1)(B)(v)(a) one Senator appointed by the President of the Senate;

(1)(B)(v)(b) the Director of the Department of Human Services or designee;

(1)(B)(v)(c) one attorney of the Executive Committee of the Family Law Section of the Utah State Bar;

(1)(B)(v)(d) one attorney with experience in abuse, neglect and dependency cases;

(1)(B)(v)(e) one attorney with experience representing parents in abuse, neglect and dependency cases;

(1)(B)(v)(f) one representative of a child advocacy organization;

(1)(B)(v)(g) the ADR Program Director or designee;

(1)(B)(v)(h) one professional in the area of child development;

(1)(B)(v)(i) one mental health professional;

(1)(B)(v)(j) ~~two~~ one representatives of the community who are knowledgeable about the needs of self-represented litigants;

(1)(B)(v)(k) the Director of the Office of Guardian ad Litem or designee;

(1)(B)(v)(l) one court commissioner;

(1)(B)(v)(m) two district court judges; and

(1)(B)(v)(n) two juvenile court judges.

(1)(B)(v)(o) One of the district court judges and one of the juvenile court judges shall serve as co-chairs to the committee. In its discretion the committee may appoint non-members to serve on its subcommittees.

(1)(B)(vi) The **Committee on Judicial Outreach** performs the duties described in rule 3-114 and shall consist of:

(1)(B)(vi)(a) one appellate court judge;

(1)(B)(vi)(b) one district court judge;

(1)(B)(vi)(c) one juvenile court judge;

(1)(B)(vi)(d) one justice court judge; one state level administrator;

(1)(B)(vi)(e) a state level judicial education representative;

(1)(B)(vi)(f) one court executive;

(1)(B)(vi)(g) one Utah State Bar representative;

(1)(B)(vi)(h) one communication representative;

(1)(B)(vi)(i) one law library representative;

(1)(B)(vi)(j) one civic community representative; ~~and~~

(1)(B)(vi)(k) one community representative who is knowledgeable about the needs of self-represented litigants;

(1)(B)(vi)(~~l~~) one state education representative; ~~and~~.

(1)(B)(vi)(~~m~~) Chairs of the Judicial Outreach Committee's subcommittees shall also serve as members of the committee.

(1)(B)(vii) The **Committee on Resources for Self-represented Parties** performs the duties described in rule 3-115 and shall consist of:

(1)(B)(vii)(a) two district court judges;

(1)(B)(vii)(b) one juvenile court judge;

(1)(B)(vii)(c) two justice court judges;

(1)(B)(vii)(d) three clerks of court – one from an appellate court, one from an urban district and one from a rural district;

(1)(B)(vii)(e) one representative from a social services organization providing direct services to underserved communities;

(1)(B)(vii)(f) one representative from the Utah State Bar;

(1)(B)(vii)(g) two representatives from legal service organizations that serve low-income clients;

(1)(B)(vii)(h) one private attorney experienced in providing services to self-represented parties;

(1)(B)(vii)(i) two law school representatives;

(1)(B)(vii)(j) the state law librarian; and

(1)(B)(vii)(k) two community representatives who are knowledgeable about the needs of self-represented litigants.

(1)(B)(viii) The **Language Access Committee** performs the duties described in rule 3-306.02 and shall consist of:

(1)(B)(viii)(a) one district court judge;

(1)(B)(viii)(b) one juvenile court judge;

(1)(B)(viii)(c) one justice court judge;

(1)(B)(viii)(d) one trial court executive;

(1)(B)(viii)(e) one court clerk;

(1)(B)(viii)(f) one interpreter coordinator;

(1)(B)(viii)(g) one probation officer;

(1)(B)(viii)(h) one prosecuting attorney;

(1)(B)(viii)(i) one defense attorney;

(1)(B)(viii)(j) two certified interpreters;

(1)(B)(viii)(k) one approved interpreter;

(1)(B)(viii)(l) one expert in the field of linguistics; ~~and~~

(1)(B)(viii)(m) two community representatives who are knowledgeable about the needs of self-represented litigants; and

(1)(B)(viii)(~~lm~~) one American Sign Language representative.

(1)(B)(ix) The **Guardian ad Litem Oversight Committee** performs the duties described in rule 4-906 and shall consist of:

(1)(B)(ix)(a) seven members with experience in the administration of law and public services selected from public, private and non-profit organizations; and

(1)(B)(ix)(b) two community representatives who are knowledgeable about the needs of self-represented litigants.

(1)(B)(x) The **Committee on Model Utah Civil Jury Instructions** performs the duties described in rule 3-418 and shall consist of:

(1)(B)(x)(a) two district court judges;

(1)(B)(x)(b) four lawyers who primarily represent plaintiffs;

(1)(B)(x)(c) four lawyers who primarily represent defendants; and

(1)(B)(x)(d) one person skilled in linguistics or communication.

(1)(B)(xi) The **Committee on Model Utah Criminal Jury Instructions** performs the duties described in rule 3-418 and shall consist of:

(1)(B)(xi)(a) two district court judges;

(1)(B)(xi)(b) one justice court judge;

(1)(B)(xi)(c) four prosecutors;

(1)(B)(xi)(d) four defense counsel; and

(1)(B)(xi)(e) one person skilled in linguistics or communication.

(1)(B)(xii) The **Committee on Pretrial Release and Supervision** performs the duties described in rule 3-116 and shall consist of:

(1)(B)(xii)(a) two district court judges;

(1)(B)(xii)(b) two justice court judges;

(1)(B)(xii)(c) one prosecutor;

(1)(B)(xii)(d) one defense attorney;

(1)(B)(xii)(e) one county sheriff;

(1)(B)(xii)(f) one representative of counties;

(1)(B)(xii)(g) one representative of a county pretrial services agency;

(1)(B)(xii)(h) one representative of the Utah Commission on Criminal and Juvenile Justice;

(1)(B)(xii)(i) one commercial surety agent;

(1)(B)(xii)(j) one state senator;

(1)(B)(xii)(k) one state representative;

(1)(B)(xii)(l) the Director of the Indigent Defense Commission or designee;

(1)(B)(xii)(m) one representative of the Utah Victims' Council;

(1)(B)(xii)(n) one representative of a community organization actively engaged in pretrial justice issues;

(1)(B)(xii)(o) one chief of police; ~~and~~

(1)(B)(xii)(p) two community representatives who are knowledgeable about the needs of self-represented litigants; and

(1)(B)(xii)(~~qp~~) the court's general counsel or designee.

(1)(B)(xiii) The **Committee on Court Forms** performs the duties described in rule 3-117 and shall consist of:

(1)(B)(xiii)(a) two district court judges;

(1)(B)(xiii)(b) one court commissioner;

(1)(B)(xiii)(c) one juvenile court judge;

(1)(B)(xiii)(d) one justice court judge;

(1)(B)(xiii)(e) one court clerk;

(1)(B)(xiii)(f) one appellate court staff attorney;

(1)(B)(xiii)(g) one representative from the Self-Help Center;

(1)(B)(xiii)(h) the State Law Librarian;

(1)(B)(xiii)(i) the district court administrator or designee;

(1)(B)(xiii)(j) one representative from a legal service organization that serves low-income clients;

(1)(B)(xiii)(k) one paralegal;

(1)(B)(xiii)(l) one educator from a paralegal program or law school;

(1)(B)(xiii)(m) one person skilled in linguistics or communication;

(1)(B)(xiii)(n) one representative from the Utah State Bar; ~~and~~

(1)(B)(xiii)(o) two community representatives who are knowledgeable about the needs of self-represented litigants; and

(1)(B)(xiii)(~~pe~~) the LPP administrator.

(1)(B)(xiv) The **Committee on Fairness and Accountability** performs the duties described in rule 3-420. The committee shall include members who demonstrate an interest in or who have experience with issues of diversity, equity, and inclusion and shall consist of:

(1)(B)(xiv)(a) one district court judge;

(1)(B)(xiv)(b) one juvenile court judge;

(1)(B)(xiv)(c) one justice court judge;

(1)(B)(xiv)(d) one appellate court judge;

(1)(B)(xiv)(e) two former judges from any court level;

(1)(B)(xiv)(f) the General Counsel or designee;

(1)(B)(xiv)(g) ~~one~~two representatives of the community, at least one of whom is knowledgeable about the needs of self-represented litigants;

(1)(B)(xiv)(h) the Director of the Office of Fairness and Accountability;

(1)(B)(xiv)(i) the Director of Data and Research or designee; and

(1)(B)(xiv)(j) up to two additional qualified individuals.

(1)(B)(xv) The **Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)** performs the duties described in rule 3-421, and shall consist of:

(1)(B)(xv)(a) **Judiciary** representatives:

(1)(B)(xv)(a)(i) two or more district court judges;

(1)(B)(xv)(a)(ii) two or more district court judicial support staff with experience in guardianship matters;

(1)(B)(xv)(a)(iii) one representative from the Guardianship Reporting and Monitoring Program (GRAMP)

(1)(B)(xv)(a)(iv) one representative from the Court Visitor Program; and

(1)(B)(xv)(a)(v) the General Counsel or designee.

(1)(B)(xv)(b) **Community stakeholder** representatives:

(1)(B)(xv)(b)(i) one representative from Adult Protective Services;

(1)(B)(xv)(b)(ii) one representative from Disability Law Center;

(1)(B)(xv)(b)(iii) one representative from Adult and Aging Services;

(1)(B)(xv)(b)(iv) one representative from Office of Public Guardian;

(1)(B)(xv)(b)(v) one representative from the Utah State Bar;

(1)(B)(xv)(b)(vi) one representative from Office of the Attorney General;

(1)(B)(xv)(b)(vii) one representative from the Utah legislature;

(1)(B)(xv)(b)(viii) one representative from the Utah Commission on Aging;

(1)(B)(xv)(b)(ix) one representative from Utah Legal Services; and

(1)(B)(xv)(b)(x) the Long-Term Care Ombudsman or designee.

(1)(B)(xv)(c) **Individual community** representatives. Three or more community stakeholders representing:

(1)(B)(xv)(c)(i) mental health community;

(1)(B)(xv)(c)(ii) medical community;

(1)(B)(xv)(c)(iii) private legal community that specializes in guardianship matters;

(1)(B)(xv)(c)(iv) aging-adult services community;

(1)(B)(xv)(c)(v) educator from a legal program or law school;

(1)(B)(xv)(c)(vi) organization serving low-income, minorities, or marginalized communities;

(1)(B)(xv)(c)(vii) citizens under or involved in guardianship; and

(1)(B)(xv)(c)(viii) other organizations with a focus including, but not limited to guardianship, aging, legal services, or disability.

(1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each standing committee. Standing committees shall meet as necessary to accomplish their work. Standing committees shall report to the Council as necessary but a minimum of once every year. Except for the Committee on Judicial Fairness and Accountability, council members may not serve, participate or vote on standing committees. Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions and vote. All members designated by this rule may make motions and vote unless otherwise specified. Standing committees may form subcommittees as they deem advisable.

(1)(D) **Committee performance review.** At least once every six years, the Management Committee shall review the performance of each committee. If the Management Committee determines that committee continues to serve its purpose, the Management Committee shall recommend to the Judicial Council that the committee continue. If the Management Committee determines that modification of a committee is warranted, it may so recommend to the Judicial Council.

(1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight Committee, recognized by Section 78A-6-901, shall not terminate.

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad

476 hoc committees may form sub-committees as they deem advisable. Ad hoc committees shall
477 disband upon issuing a final report or recommendations to the Council, upon expiration of the
478 time set for termination, or upon the order of the Council.

479
480 **(3) General provisions.**

481 **(3)(A) Appointment process.**

482 **(3)(A)(i) Administrator's responsibilities.** The state court administrator shall
483 select a member of the administrative staff to serve as the administrator for
484 committee appointments. Except as otherwise provided in this rule, the
485 administrator shall:

486
487 **(3)(A)(i)(a)** announce expected vacancies on standing committees two
488 months in advance and announce vacancies on ad hoc committees in a
489 timely manner;

490
491 **(3)(A)(i)(b)** for new appointments, obtain an indication of willingness to
492 serve from each prospective appointee and information regarding the
493 prospective appointee's present and past committee service;

494
495 **(3)(A)(i)(c)** for reappointments, obtain an indication of willingness to serve
496 from the prospective reappointee, the length of the prospective
497 reappointee's service on the committee, the attendance record of the
498 prospective reappointee, the prospective reappointee's contributions to
499 the committee, and the prospective reappointee's other present and past
500 committee assignments; and

501
502 **(3)(A)(i)(d)** present a list of prospective appointees and reappointees to
503 the Council and report on recommendations received regarding the
504 appointment of members and chairs.

505
506 **(3)(A)(ii) Council's responsibilities.** The Council shall appoint the chair of each
507 committee. Whenever practical, appointments shall reflect geographical, gender,
508 cultural and ethnic diversity.

509
510 **(3)(B) Terms.** Except as otherwise provided in this rule, standing committee members
511 shall serve staggered three year terms. Standing committee members shall not serve
512 more than two consecutive terms on a committee unless the Council determines that
513 exceptional circumstances exist which justify service of more than two consecutive
514 terms.

515
516 **(3)(C) Expenses.** Members of standing and ad hoc committees may receive
517 reimbursement for actual and necessary expenses incurred in the execution of their
518 duties as committee members.

519

520 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
521 committees.

522

523 *Effective: ~~May~~June 1, 202~~4~~3*

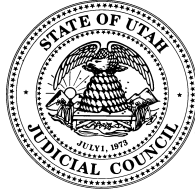
TAB 5

CJA 3-306.04. Interpreter appointment, payment, and fees

Notes: Per the attached memo, the Language Access Program would like to hire court staff interpreters to serve the 5th, 7th, and 8th districts. Currently, rule 3-306.04(2)(A) appears to prohibit the AOC's ability to hire staff interpreters, stating "A court may hire an employee interpreter..."

I propose removing all language in (2)(A) and (2)(B) related to employment and employee benefits. The AOC's authority to manage personnel is statutory (78A-2-107(1)) and employee benefits are outlined in HR policy. Those issues do not belong in rule.

If I'm recalling correctly, (2)(A) and (2)(B) were added around the time the 3rd district court hired the first ever staff interpreters and the intent was to distinguish between the certification requirements, pay, ethical requirements, etc. applicable to employees hired as interpreters vs. existing employees (JAs, POs, etc.) appointed to interpret in a case under extraordinary circumstances (2)(C).



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

January 26, 2024

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

MEMORANDUM

TO: Policy, Planning, and Technology Committee

FROM: Jon Puente, Director OFA
Jessica Leavitt, Language Access Program Manager

RE: Revisions to Rule 3-306.04

One of the results of courts holding virtual hearings due to the pandemic was that independent contract court interpreters were no longer geographically bound to work in their state of residence. As a result of that, mainly Spanish, independent Utah court interpreters started taking remote assignments in other states. As an unintended consequence of this, the interpreters started turning down in-person assignments for the Utah State Courts. This particularly impacted rural districts.

One solution to this problem is to hire a court staff interpreter to serve these districts. While individual districts may not have the critical mass number of cases that warrant the hiring of a staff interpreter, combined they do. The Language Access Program (LAP) would like to hire a court staff interpreter that can serve the Fifth, Sixth, Seventh, and Eight Districts when they require an in-person interpreter. However UCJA 3-306.04(2)(A) stipulates that "A court may hire an employee interpreter..", we propose that the rule be amended so that the AOC's LAP may hire employee interpreters to address the language needs of the Courts in rural parts of the state. Along with this change, we are including updated citations to the rule from General Counsel.

Due to the need of interpreters we ask that this rule be expedited under UCJA 2-205.

The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.

Rule 3-306.04. Interpreter appointment, payment, and fees.**Intent:**

To state the policy of the Utah courts to secure the rights of people under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. in legal proceedings who are unable to understand or communicate adequately in the English language.

To outline the procedures for appointment and payment of interpreters for legal proceedings.

To provide certified interpreters in legal proceedings in those languages for which a certification program has been established.

Applicability:

This rule shall apply to legal proceedings in the courts of record and not of record. This rule shall apply to interpretation for non-English speaking people and not to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.

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

(1)(A) Except as provided in paragraphs (1)(B), (1)(C) and (1)(D), if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.

(1)(B) An approved interpreter may be appointed if no certified interpreter is reasonably available.

(1)(C) A registered interpreter may be appointed if no certified or approved interpreter is reasonably available.

(1)(D) A conditionally-approved interpreter may be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:

(1)(D)(i) the prospective interpreter has language skills, knowledge of interpreting techniques and familiarity with interpreting sufficient to interpret the legal proceeding; and

(1)(D)(ii) appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and

(1)(D)(iii) a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved interpreter are not justified.

(1)(E) Out of state credentials. The appointing authority may appoint an interpreter with certified or approved or equivalent credentials from another state if the appointing authority finds that the approved, registered or conditionally approved interpreters who are reasonably available do not have the language skills, knowledge of interpreting techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The appointing authority may consider the totality of the circumstances, including the complexity or gravity of the legal proceeding, the potential consequences to the person of limited English proficiency, and any other relevant factor.

(1)(F) Direct verbal exchange. No interpreter is needed for a direct verbal exchange between the person and court staff if the court staff can fluently speak the language understood by the person and the state court employee is acting within guidelines established in the Human Resources Policies and Procedures. An approved, registered or conditionally approved interpreter may be appointed if the court staff does not speak the language understood by the person.

(1)(G) Number of interpreters. The appointing authority will appoint one interpreter for all participants with limited English proficiency, unless the judge determines that the participants have adverse interests, or that due process, confidentiality, the length of the legal proceeding or other circumstances require that there be additional interpreters.

(2) **Court employees as interpreters.** A court employee ~~is not hired as staff interpreters~~ may ~~only~~ not interpret legal proceedings ~~except as follows~~ under extraordinary circumstances. The employee must meet the conditions of a conditionally-approved interpreter under paragraph (1)(D) and must abide by the Code of Professional Responsibility for Court Interpreters. The employee will be paid the wage and benefits of the employee's grade.

~~(2)(A) A court may hire an employee interpreter. The employee will be paid the wages and benefits of the employee's grade and not the fee established by this rule. If the language is a language for which certification in Utah is available, the employee must be a certified interpreter. If the language is a language for which certification in Utah is not available, the employee must be an approved interpreter. The employee must meet the continuing education requirements of an employee, but at least half of the minimum requirement must be in improving interpreting skills. The employee is subject to the discipline process for court personnel, but the grounds for discipline include those listed in rule 3-306.05.~~

~~(2)(B) A state court employee employed as an interpreter has the rights and responsibilities provided in the Utah state court human resource policies, including the Code of Personal Conduct, and the Court Interpreters' Code of Professional~~

~~Responsibility also applies. A justice court employee employed as an interpreter has the rights and responsibilities provided in the county or municipal human resource policies, including any code of conduct, and the Court Interpreters' Code of Professional Responsibility also applies.~~

~~(2)(C) A court may use an employee as a conditionally approved interpreter under paragraph (1)(D). The employee will be paid the wage and benefits of the employee's grade and not the fee established by this rule.~~

(3) **Review of denial of request for interpreter.** A person whose request for an interpreter has been denied may apply for review of the denial. The application shall be decided by the presiding judge. If there is no presiding judge or if the presiding judge is unavailable, the clerk of the court shall refer the application to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the denial.

(4) **Waiver.** A person may waive an interpreter if the appointing authority approves the waiver after determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-English speaking person, so the appointing authority may reject a waiver.

(5) **Translation of court forms.** Forms must be translated by a team of at least two people who are interpreters certified under this rule or translators accredited by the American Translators Association.

(6) **Payment.**

(6)(A) The fees and expenses for language access shall be paid by the administrative office of the courts in courts of record and by the government that funds the court in courts not of record. The court may assess the fees and expenses as costs to a party as otherwise provided by law. (Utah Constitution, Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-~~1167~~, ~~77-32a-4~~, 77-32~~ba-1042~~, ~~77-32a-3~~, 78B-1-146(3), URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and regulations and guidance adopted under that title.)

(6)(B) A person who has been ordered to pay fees and expenses for language access may apply to the presiding judge to review the order. If there is no presiding judge, the person may apply to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the order.

(7) **Fees.**

(7)(A) Every three years, the Judicial Council shall review a market survey conducted by the Language Access Program Manager and shall set the fees and expenses to be paid to contracted interpreters during the following three fiscal years by the courts of record.

130 Payment of fees and expenses shall be made in accordance with the Courts Accounting
131 Manual.

132

133 (7)(B) The local government that funds a court not of record shall set the fees and
134 expenses to be paid to interpreters by that court.

135

|136 *Effective: ~~March~~ 1, 20~~24~~¹⁶*

137

TAB 6

CJA 6-304. Grand jury panel

Notes: The proposed amendments change all member terms to 5 years, with no member serving more than 2 consecutive terms. Retiring members would be allowed to finish out a term as an active senior judge.

Rule 6-304. Grand jury panel.**Intent:**

To establish a procedure for appointing district court judges to the statutory panel authorized to convene a grand jury.

To establish the responsibility of the court administrator to provide staff support to the panel.

To establish a procedure for providing public notice of panel hearings.

Applicability:

This rule shall apply to the Council, the Administrative Office, the Board of District Court Judges and the statutory panel.

Statement of the Rule:

(1) **Appointment.** The presiding officer of the Council shall appoint a panel of five district court judges in accordance with Utah Code Ann. Section 77-10a-2 to hear information which may justify the calling of a grand jury. The presiding officer shall designate one member of the panel to serve as the supervising judge.

(2) Members. The panel shall consist of:

(2)(A) one member from the first or second district;

(2)(B) two members from the third district;

(2)(C) one member from the fourth district; and

(2)(D) one member from the fifth, sixth, seventh, or eighth district.

~~(3) **Terms.** Panel members will be appointed to serve five-year terms. No member may serve more than two consecutive terms. Panel judges who retire during their term may continue to serve the remainder of that term as an active senior judge but may not serve a second term. One judge shall be appointed from the first or second district for a five year term, one judge shall be appointed from the third district for a four year term, one judge shall be appointed from the fourth district for a three year term, one judge shall be appointed from the fifth, sixth, seventh or eighth district for a two year term, and one judge shall be appointed from the third district for a one year term. Following the first term all terms on the panel are for five years.~~

~~(4) **Vacancies.** As vacancies occur or terms expire on the panel, the Board shall recommend to the presiding officer of the Council a judge to fill the unexpired portion of the term or to serve a new term.~~

(54) **Secretariat.** The Court Administrator shall designate a staff member to serve as secretariat to the panel and to coordinate scheduling, budget and other administrative activities.

(65) **Schedule.** The Administrative Office, at the direction of the panel, shall annually publish a schedule which provides for a panel hearing in each judicial district every three years.

(76) **Public notice.** Thirty days prior to the hearing, the panel shall give public notice of the hearing.

(87) **Procedures.** The panel shall develop necessary procedures for its operation ~~and shall publish such procedures as an appendix to this~~ in accordance with Utah Code.

Effective: ~~April 15, 1991~~ May 1, 2024

TAB 7

HR07-3. 7-hour Annual Leave Accrual

HR07-20(3)(a). Leave Bank Definition

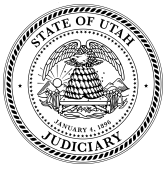
HR Definitions (45), HR13-1. Volunteering

HR08-2. Teleworking

HR03-4, 06-9, 17-5, 17-6, 17-7. Grievance Period Update

HR08-7. FLSA Exempt Time Reporting

Notes: See attached memo



Memorandum

From: Bart Olsen, Director of HR, Administrative Office of the Courts
Jeremy Marsh, Deputy Director of HR, Administrative Office of the Courts

To: Keisa Williams, General Counsel, Administrative Office of the Courts
Policy, Planning & Technology Committee

Re: Summary of Draft HR Policy Amendments

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

BACKGROUND

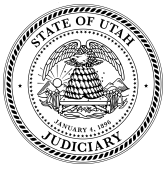
Consistent with [Rule 3-402\(5\)](#), the Human Resources Policy Review Committee (HRPRC) meets regularly to review suggestions for policy amendments and assist the Policy, Planning & Technology Committee, and the Judicial Council to keep policies current and effective.

The HRPRC has approved the accompanying recommended amendments to HR Policy. This memo briefly summarizes each proposed HR Policy amendment and the accompanying reasoning and seeks approval from the Policy, Planning & Technology Committee prior to final approval from the Judicial Council.

7-HOUR ANNUAL LEAVE ACCRUAL

All employees accrue 4 hours of annual leave when they begin employment. The accrual goes up with years of service in 5 year increments. There have been some exceptions for new hires allowing the maximum of 7-hour accrual rate for certain positions including positions that report to the State Court Administrator and the IT Director.

The Judicial Research and Data Department (JRDD), established last year to address the pressing need for court-related data and research, has functions that are inherently IT-oriented. In light of this, a proposed update recommends extending the 7-hour leave accrual benefit to new hires in JRDD as outlined in HR07-3 with similar IT positions.



The Utah Judicial Branch Department of Human Resources



This recommendation stems from our commitment to staying competitive in the dynamic IT job labor market. By ensuring that the newly formed JRDD mirrors the leave accrual policy of IT roles, we not only enhance the attractiveness of our employment offerings but also promote consistency within IT-related positions across the judicial branch.

The recommended change serves to maintain equity in leave accrual among various IT job functions within the Judicial Research and Data Department. It is important to note that the policy adjustment aligns with the requirement that eligible employees for the 7-hour accrual are newly hired, FLSA exempt, and at-will, reflecting our dedication to fair and consistent practices.

Policy: [HR07-3](#)

LEAVE BANK DEFINITION

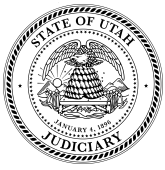
Employees who accrue more than the annual accrual leave cap of 320 hours automatically donate the excess hours to a bank of hours known as the Leave Bank. Those hours are then available when employees meet eligibility requirements and have also exhausted their regular leave balances. As of now, we have approximately 18,000 hours available in the Leave Bank. Employees are limited to 240 hours per calendar year. Historically, we have had only a small number of employees per year facing conditions that would result in Leave Bank use eligibility such as cancer, major surgery, or similar incapacitating injuries or illnesses.

The Leave Bank has proven to be a valuable resource in supporting employees facing serious or life-threatening illnesses or injuries, ensuring the continuity of benefits and salary while facilitating a smooth return to work. This recommended definition loosens the eligibility requirements for the Leave Bank, allowing greater utilization. Management encountered a number of employee situations that were indeed serious but not quite “life-threatening” that the definition appears to require.

To address concerns and improve the applicability of the policy, we have made recommendations that aim to bring clarity to the process and broaden the scope for eligibility. The key recommendations allow for the approval of sick leave banks in situations that, while incapacitating, may not be categorized as life-threatening.

These recommendations provide a more streamlined and accessible approach for employees and management, ensuring that the Leave Bank remains a supportive resource during challenging times. We believe that these changes will foster a more compassionate and responsive work environment.

Policy: [HR07-20\(3\)\(a\)](#)



The Utah Judicial Branch Department of Human Resources



VOLUNTEERING

Almost two years ago, the Office of Fairness and Accountability introduced Employee Resource Groups (ERGs) such as Court Employees of Color, Working Parent Employee & Allies, LGBTQAI+, and more.

Since the formation of these groups, HR has received numerous inquiries regarding what constitutes compensable time for employees attending, serving, and interacting with ERGs.

The recommendations bring transparency to the compensation structure for ERG involvement while complying with the Fair Labor Standards Act (FLSA) and help employees understand the expectations and responsibilities associated with being an active participant in ERGs and other types of volunteering.

Policy: [HR Definitions\(45\)](#), [HR13-1](#)

TELEWORKING

The Department of Government Operations (DGO) which houses the Division of Human Resources (DHRM). DHRM owns the Utah Performance Management System (UPM) which is designed to help managers establish performance expectations and monitor performance of employees. The system is antiquated, difficult to navigate, does not meet Judicial Branch needs, and is not used.

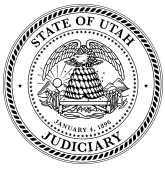
Policy: [HR08-2](#)

GRIEVANCE PERIOD UPDATE

Currently, career service court employees have a 60-day window to initiate the grievance process following adverse actions. The 60-day window creates an excessive period of uncertainty as to whether their career service employment decision stands. This unnecessarily hampers management's ability to move business forward in a meaningful way for far too long.

Notably, [HB104](#) in the 2022 General Legislative session adjusted the grievance period for an executive branch career service employee from 30 working days to 10 and has not resulted in any significant legal challenges.

Policy: [HR03-4](#), [HR06-9](#), [HR17-5](#), [HR17-6](#), [HR17-7](#)



The Utah Judicial Branch
Department of Human Resources



FLSA EXEMPT TIME REPORTING

This is a minor adjustment that establishes a connection between HR07-1(13) and HR08-7, providing clarification on the reporting of absences for FLSA employees.

Policy: [HR08-7](#)

7-HOUR ANNUAL LEAVE ACCRUAL

HR07-3. Annual Leave.

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

1. Less than 5 years: four hours per pay period;
2. At least 5 and less than 10 years: five hours per pay period;
3. At least 10 and less than 20 years: six hours per pay period;
4. 20 years or more: seven hours per pay period.

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

1. An employee in a court executive, court level administrator, or director level position; or
2. An employee who is FLSA exempt and who has a direct reporting relationship to a deputy court administrator or state court administrator.
3. The employee is a newly hired, FLSA exempt, and at-will employee of the IT or Judicial Data and Research departments and has been granted maximum annual leave accrual by the IT or Judicial Data and Research director.

3. The accrual rate for an employee rehired to a position that receives leave benefits shall be based on all eligible employment in which the employee accrued leave.

4. For purposes of compliance with UCA §63G-1-301(1)(d), the first eight hours of annual leave used by an employee in the calendar leave year for any reason are considered to be the employee's "personal preference day".

5. Management shall allow every employee the option to use annual leave each calendar year for at least the amount accrued in the year.

44 6. Unused accrued annual leave in excess of 320 hours shall be
45 forfeited during year end payroll processing for each calendar
46 year and added to the judicial branch's general leave bank.

47
48
49 7. Upon termination of employment, all unused annual leave hours
50 shall be paid in a lump sum on the employee's final paycheck.

51
52 Upon retirement, unused annual leave may either be paid in a
53 lump sum on the employee's final paycheck, or the employee may
54 elect to convert unused annual leave into a 401(k) or 457
55 account supported by URS and consistent with [UCA §63A-17-504](#)

56

LEAVE BANK DEFINITION

HR07-20. Leave Bank.

- 1) General utilization of a leave bank program is subject to the approval of the Judicial Council.
 - a) Access to the leave bank is not an employee right and shall be authorized at management discretion.
 - b) Requests for leave bank hours may be initiated by the employee or by the employee's line of management to the HR Department and shall be supported by administratively acceptable documentation from a healthcare provider.
 - c) Leave donors, supervisors, managers, and management teams are prohibited from reviewing an employee's medical certifications or physician statements.
 - d) An employee may receive donated leave until all individually accrued leave is exhausted.
 - e) Leave shall be accrued if an employee is on sick leave donated from the leave bank.
 - f) An employee using donated leave shall not work a second job without written consent of the court level administrator.
 - g) Only compensatory time earned by an FLSA nonexempt employee, annual leave, excess hours, and converted sick leave hours may be donated to the leave bank.
 - h) Only employees of state agencies with approved leave bank programs may donate leave hours to an employee of the judicial branch or employees of the judicial branch to other state agencies with approved leave bank programs, if mutually agreed on by both organizations.

~~2)~~ All medical records created for the purpose of a leave bank shall be maintained in accordance with confidentiality requirements of [HR02-5](#).

~~3)~~2) Eligibility for an employee to receive leave bank donations is reviewed and determined by the HR Department and is subject to the following eligibility criteria:

- a) Healthcare provider documentation provides evidence of:
 - i. a catastrophic illness or injury; or
 - ~~a) ii. meaning~~ an illness, acute physical condition, or injury that is ~~life-threatening or~~ incapacitating and that reasonably requires the employee to be absent from work.

~~a)~~b) The employee has used or will soon have used all individually accrued leave.

4) Leave bank donation approval may be granted by the court executive, court level administrator, director, deputy state court administrator, or designee and shall be subject to the following limitations:

a) The number of hours granted shall not exceed 80 hours per pay period (40 hours per week), nor shall it exceed a cumulative total of more than 240 hours in a calendar year.

b) An employee participating in the Short Term Disability Insurance (STDI) program shall only be eligible for enough leave bank hours to cover payroll deductions.

c) The employee does not misuse or abuse leave privileges or benefits.

5) Annual leave hours unused by classified employees by the end of the calendar year shall be automatically donated to the general leave bank.

6) Employees may also donate annual leave, excess leave, converted sick leave, or compensatory leave hours to the general leave bank or to a specific employee who has been approved by HR and by the employee's management to receive donated leave bank hours.

7) The HR Department shall notify employees of the judicial branch when management approves an employee to receive donated leave and shall include instructions on how to donate leave to the employee.

8) Any leave hours donated to an employee who end up not being used by the employee shall be donated to the general leave bank unless the donating employee specifically requests otherwise.

VOLUNTEERING

- (42) **Employee:** Unless specifically indicated otherwise, an individual occupying a position other than justice, judge, or court commissioner.
- (43) **Employee Personnel Files:** The files or records maintained by HR as required by Rule [3-402\(7\)](#). This does not include employee information maintained locally by supervisors.
- (44) **Employee's Family Member:** An employee's relative or household member as defined in Section [52-3-1](#) but also including, step-siblings, step-parents, and step-children.
- ~~(45)~~ **Employee Resource Group:** A voluntary group of employees under the stewardship of the Office of Fairness and Accountability whose purpose is to help foster a diverse and inclusive work environment aligned with advancing the mission of the Utah judiciary.
- ~~(45)~~ ~~(46)~~ **Employment Eligibility Verification:** A requirement of the Immigration Reform and Control Act of 1986, [8 USC 1324](#) that employers verify the identity and eligibility of individuals for employment in the United States.
- ~~(46)~~ ~~(47)~~ **"Escalator" Principle:** Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment.
- ~~(47)~~ ~~(48)~~ **Excess Hours:** A category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's actual hours worked, plus additional hours paid, exceed an employee's normal work period. For example, excess hours are accrued in pay periods with state holidays as described in [HR07-2](#).
- ~~(48)~~ ~~(49)~~ **Ex-parte:** Communication with a party to an action without notice to the other party or parties.

~~(49)~~ (50) **Examination:** a written and/or oral exercise designed to test an applicant's qualifications for hiring or promotion.

VOLUNTEERING

Section 13 - Volunteering Programs

HR13-1. Volunteer Programs.

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

1. A volunteer program shall include:

1. Documented agreement of the type of work and duration for which the volunteer services will be provided;
 2. Orientation to the conditions of service to the judicial branch and the volunteer's specific assignments;
 3. Adequate supervision of the volunteer; and
 4. Documented hours worked by a volunteer if requested by management.
 5. Compliance with [Title 67, Chapter 20, Volunteer Government Workers Act](#).

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

1. Local management shall approve all work programs for volunteers before volunteers provide service to the judicial branch.
 2. Volunteers are subject to a criminal background check consistent with [HR04-15](#).

3. A volunteer is considered a government employee for purposes of workers' compensation, operation of motor vehicles or equipment, if properly licensed and authorized to do so, and liability protection and indemnification.

~~6. 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.~~

~~7. The HR Director may authorize exceptions to this policy consistent with HR02-2(1).~~

HR13-2. Employee Volunteer Service

1. 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, consistent with 29 CFR Part 553 Subpart B regulating the application of the Fair Labor Standards Act to Employees of State and Local Governments.
2. When volunteer services are scheduled during business hours, the employee must receive advance supervisory approval pursuant to HR08-1 governing the employee workweek.
3. Usage of leave for volunteering during business hours is subject to the provisions of HR07 governing leave.

HR13-3. Employee Resource Group (ERG) Participation

1. An employee may choose to voluntarily participate in the activities of a judicial branch Employee Resource Group (ERG) under the stewardship of the Office of Fairness and Accountability.
 1. When ERG activities are scheduled during business hours, the employee must receive advance supervisory approval pursuant to HR08-1 governing the employee workweek.
 2. The employee may record up to one hour per month of voluntary ERG participation as work time.
 3. An employee may participate in excess of one hour per month in an ERG. However, only one hour per month is eligible to be recorded as work time.
 4. Usage of leave for volunteering in ERG activities during business hours is subject to the provisions of HR07 governing leave.
2. A supervisor or manager shall not require an employee to participate in ERG activities.

227 3. A supervisor or manager shall not prohibit an employee from
228 participating in ERG activities so long as business needs are
229 met.
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231 **HR13-4. Policy Exceptions**

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233 The HR Director may authorize exceptions to this policy consistent
234 with HR02-2(1).
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237 **Authorizing, and Implemented or Interpreted Law:** UCJA 3-402; UCA
238 §67-20-3; UCA §67-20-4
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TELEWORKING

HR08-2. Teleworking.

- 1) Teleworking is an option that may be considered by management for a variety of reasons, including but not limited to maximizing efficiency of judicial branch business, meeting needs of court patrons, leveraging cost-savings measures, etc. It is not a universal employee benefit and may be terminated by management at any time.
- 2) Before beginning a routine teleworking arrangement, management and an employee shall establish a written agreement specifying the conditions of the routine teleworking work status, including the expectation to comply with this policy and any other applicable expectations the district, office, or team may require.
 - a) The written agreement shall be endorsed by management and by the employee.
 - b) Management shall send the endorsed agreement to HR for maintenance in the official personnel file, or alternatively, upload the agreement directly in the employee's Utah Performance Management (UPM) account.
 - c) Any amendments to this agreement shall require a new written agreement endorsed by management and by the employee to supersede the old agreement and shall be maintained by HR in the official personnel file, ~~or alternatively, shall be uploaded directly in the employee's Utah Performance Management (UPM) account.~~
- 3) All teleworkers are required to protect confidential and/or sensitive information in accordance with federal and state regulations and in accordance with judicial branch rules and policies.
 - a) Unauthorized disclosure of such information is subject to penalties provided by law.
 - b) Unauthorized disclosure of information may also result in disciplinary action up to and including termination of employment.

Teleworkers must adhere to the Acceptable Use of Information Technology Resources policy found in HR09-15.

GRIEVANCE PERIOD UPDATE

HR03-4. Position Classification Review.

- 1) A formal classification review may be conducted under the following circumstances:
 - a) as part of a classification study;
 - b) at the request of management and with the approval of the HR Director or designee; or
 - c) as part of a classification grievance review.
- 2) HR shall determine if there have been sufficient changes in the duties of a position to warrant a formal review within ten (10) business days of receipt of the written request.
 - a) If a classification review is conducted for an employee-filled position, it shall be completed within thirty (30) calendar days of the written request.
 - b) If a classification review is conducted for a vacant position, it shall be completed within fifteen (15) business days of receipt of the written request.
 - c) If HR determines there have not been sufficient changes to warrant a formal review, the reasons for the decision to deny a review shall be articulated in writing to the requestor within ten (10) business days of receipt of the original written request.
 - d) If a request for a position classification review is denied, it may be resubmitted at a later date for reconsideration, especially if any circumstances for the request have changed.
 - e) The decision to deny a request for position classification review is not eligible for grievance review by the grievance review panel under [HR11](#). However, the requestor may submit a written request to the State Court Administrator or Deputy State Court Administrator to have a second review within fifteen (15) business days of receipt of the written denial of review.
 - f) Within sixty (60) days of receipt of the request for a second review, the State Court Administrator or Deputy State Court Administrator shall make a written decision and send a copy of the decision to the requestor and to the HR Director.

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- 3) When a district, office, or team is reorganized or positions are redesigned, classification reviews may be conducted after an appropriate settling period has occurred.
- 4) The HR Director or designee shall make final classification decisions unless overturned by a hearing officer or court.

GRIEVANCE PERIOD UPDATE

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

- 1) If a career service position or group of career service positions is/are approved by the Judicial Council for conversion to at-will status, a career service employee shall have ~~60~~ten (10) days from the date of offer to elect to convert from career service to at-will. As an incentive to convert, a career service employee shall be provided the following:
 - a) An administrative salary increase of at least 1% or up to the current salary range maximum. An employee at or above the current salary range maximum shall receive, in lieu of the salary adjustment, a one-time bonus not to 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 after the ~~ten (10)~~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 at-will shall retain career service status; however, when a career service employee vacates an at-will position, subsequent appointments shall be at-will.
- 4) An at-will employee who has not previously earned career service status shall remain at-will. When the employee vacates the position, subsequent appointments shall be consistent with [HR04](#).
- 5) Management shall communicate to all impacted and future eligible employees the conditions and limitations of this incentive program.

GRIEVANCE PERIOD UPDATE

HR17-5. Grievance Levels and Timelines.

1) For purposes of this chapter, the counting of business days for timelines shall begin on the first day following receipt of the applicable grievance, complaint, or response that is not a Saturday, Sunday, or a holiday under [HR07-2](#).

2) An employee wishing to advance a formal grievance shall do so within ten (10)~~60~~ days after the event giving rise to the grievance or within ten (10)~~60~~ days after the employee knows, or with exercise or reasonable diligence should have known, of the event giving rise to the grievance.

3) If an employee is dissatisfied with a response at any of the grievance levels outlined below, the employee may advance the grievance to the next level within ten (10)~~15~~ business days.

4) Grievances alleging retaliatory action and requests to review the findings of an abusive conduct investigation are not subject to levels 1-3 outlined below and may be filed directly to the Grievance Review Panel or the Judicial Council.

5) At each level, the employee shall provide the HR Department a copy of all grievance documents advanced to management. The employee shall advance the grievance in accordance with the following levels of increasing accountability:

Level 1

a) A written grievance shall be submitted to the employee's immediate supervisor.

b) Once submitted, the written grievance is a formal complaint requiring a response.

- 419 c) If desired, the employee may also request mediation in
420 accordance with [HR17-8](#) in conjunction with Level 1.
421 d) If a supervisor is the subject of a grievance or
422 complaint, the employee may proceed directly to Level
423 2.
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425 Level 2

- 426 e) If the grievance is not resolved at Level 1 within
427 five (5) business days, an employee may request
428 mediation in accordance with [HR17-8](#) or advance a
429 grievance to the direct supervisor's manager.
430 f) If that manager is the subject of a grievance or
431 complaint, the employee may proceed directly to Level
432 3.
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434 Level 3

- 435 g) If a grievance is not resolved at Level 2 within ten
436 (10) business days, the employee may request
437 mediation in accordance with [HR17-8](#) or advance the
438 grievance to the Court Executive or Court Level
439 Administrator at Level 3.
440 h) If that manager is the subject of a grievance or
441 complaint, the employee may proceed directly to Level
442 4.
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444 Level 4

- 445 i) If a grievance is not resolved at Level 3 within
446 fifteen (15) business days, the employee may request
447 mediation in accordance with [HR17-8](#) or advance the
448 grievance to the Grievance Review Panel at Level 4, by
449 submitting the request for Level 4 review to [the HR](#)
450 [Director or the HR Manager](#).
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- 453 6) The purpose in specifying these four levels is to curtail
454 employees from having to submit their grievances to persons
455 not specified in the above steps or levels. Only the above-
456 listed persons (or their designated representatives) in
457 management are authorized to respond to a career service
458 employee's grievance.
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GRIEVANCE PERIOD UPDATE

HR17-6. Appeal of Demotion or Dismissal.

~~2~~1) An aggrieved employee who has been demoted or dismissed by the court executive, court level administrator or administrative office director may appeal the action directly to the Grievance Review Panel.

a) An appeal from discipline imposed by the court executive, court level administrator or administrative office director is distinguishable from a grievance.

b) A grievance is filed at step 1 and proceeds through steps 2 and 3.

c) When an appeal from discipline imposed by a court executive, court level administrator or administrative office director occurs at the step 3 level, it may be appealed directly to the Grievance Review Panel.

~~3~~2) When appealed to the Grievance Review Panel, the appeal must be filed within ten (10) ~~30~~ business days from the date an aggrieved employee receives written notification from the level of management that imposed the disciplinary action.

HR17-7. Appeal of Reduction in Force or Abandonment of Position.

An aggrieved employee may appeal a reduction in force or abandonment of position to be considered by the Grievance Review Panel according to the following:

1) Upon receipt of the final written decision, the employee may appeal from a reduction in force by submitting a written appeal to the HR Department within ten (10) ~~20~~ business days of receipt of the decision.

2) An employee separated from employment for abandonment of a position may appeal the final written decision by filing a written appeal with the HR Department within ten (10) ~~20~~ business days of receipt of the decision.

FLSA EXEMPT TIME REPORTING

HR08-7. Time Reporting for FLSA Exempt Employees.

- 1) FLSA exempt employees do not earn overtime pay and do not accrue excess or compensatory time.
- 2) FLSA exempt employees shall report all absences from work in excess of four hours on a regularly scheduled work day, per the parameters outlined in HR07-1(13).
 - a) Absences may be recorded with any type of leave accrued by the employee, subject to supervisory approval.
 - b) Absences may also be recorded as leave without pay if advance approval is granted by management.
- 3) Time records shall follow payroll and timesheet guidelines established by the Department of Finance in the Accounting Manual Section 01-02.