

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

Webex video conferencing  
February 2, 2024 – 12 p.m.

**MEMBERS:**

**PRESENT**

**EXCUSED**

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

**GUESTS:**

Senior Judge Appleby  
Neira Siaperas  
Nathanael Player  
Katsi Pena  
Jon Puente  
Jessica Leavitt  
Bart Olsen  
Jeremy Marsh  
Tucker Samuelson  
Todd Eaton  
Shane Bahr  
Keri Sargent  
Bryson King  
Stacey Snyder

**STAFF:**

Keisa Williams  
Minhvan Thach

**(1) Welcome and approval of minutes:**

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the January 5, 2024, meeting. With no changes, Judge DiReda moved to approve the minutes as presented. Judge Carpenter seconded the motion. The motion passed unanimously.

**(2) Rules back from public comment:**

- **CJA 3-104. Presiding Judges**

The proposed amendments to CJA 3-104 replace the definition of cases under advisement with a reference to criteria in CJA 3-101. The amendments also require state level administrators to report to the Management Committee if it is determined that a judge has willfully failed to submit a monthly case under advisement report.

Following a 45-day comment period, no comments were received. Additional amendments to CJA 3-104 related to senior judges have been recommended under Tab 3. The committee waited to take action until after considering those amendments.

- (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**

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 the proposed revisions and provided input.

*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

Following a discussion, the committee did not make substantive changes to the proposed rule drafts. The committee noted that the term “Senior Judge” is a defined term and recommended that the term be consistent throughout each of the proposed rule drafts. All proposed amendments to rule 3-104 should be considered for final approval at the same time.

***Following further discussion, Judge Gardner moved to recommend to the Judicial Council that the proposed amendments to CJA rules 1-305, 3-104 (including the amendments recently back from public comment), 3-108, 3-111, 3-113, 3-403, and 3-501 be approved for a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.***

**(4) CJA 1-205. Standing and ad hoc committees**

The proposed amendments to CJA 1-205 add community representatives to the following standing committees of the Judicial Council:

- Judicial Branch Education Committee
- Court Facility Planning Committee
- Committee on Children and Family Law
- Committee on Judicial Outreach
- Committee on Resources for Self-represented Parties
- Language Access Committee
- Guardian ad Litem Oversight Committee

- Committee on Pretrial Release and Supervision
- Committee on Court Forms
- Committee on Fairness and Accountability

Community representatives will provide an outside perspective on the processes and procedures of the court. Representatives would be added to the standing committees in quarterly phases and representatives may or may not have a voting seat on the committees. Though staff have received positive feedback and support to include community representatives on standing committees, the proposed amendments have not been approved by each of the impacted committees.

The GAL Oversight Committee expressed appreciation for the idea of having community representatives on standing committees, however, due to the sensitive nature of the items often discussed by the GAL Oversight Committee, the committee does not feel a community representative would be an appropriate fit. The GAL Oversight Committee requested that the decision to add a community representative to its committee be placed on hold until the committee has had more time to consider the issue.

The PP&T committee noted that certain standing committees, such as the Judicial Branch Education Committee, would not benefit from a community representative member, as discussion topics regarding judicial education would not require input from an outside source. The committee supports the idea of adding community representatives to standing committees where it makes sense. The committee would appreciate input from each of the standing committees before considering a rule amendment and asked that the issue be placed on a future agenda with each committees' recommendation.

The committee recommended that the term "two community representatives" be used consistently throughout the rule.

***Following discussion, Judge Bazzelle moved to recommend that the proposed amendments to CJA 1-205 be discussed with each of the impacted standing committees for further feedback and recommendations. Judge Direda seconded the motion. The motion passed unanimously. The proposed amendments will be returned for further consideration at another meeting.***

#### **(5) CJA 306.04. Interpreter appointment, payment, and fees**

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..." When reviewing the language access rules, Ms. Williams identified several concerns and recommended the following additional amendments:

Rule 3-306.05:

Rule 3-306.05 should be repealed in its entirety. Interpreters on the statewide court roster are independent contractors and the procedures outlined in rule 3-306.05 conflict with contract provisions. The contract states that interpreters serve at the will and pleasure of the AOC and the contract may be terminated at any time, with or without cause. Court employees, including career service employees, do not have the rights contemplated in rule 3-306.05.

Rule 3-306.02:

Removes the reference to rule 3-306.05.

Rule 3-306.03:

The proposed amendments clarify that the rule does not apply to staff interpreters employed by the court, adds clarifying language consistent with standard contract provisions, and gives the Language Access Program Manager the authority to grant a rare language exemption without having to get approval from the Language Access Committee.

Rule 3-306.04:

The proposed amendments would remove 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. In paragraph (1), judicial officers would have the authority to appoint "approved" interpreters without having to first exhaust the list of certified interpreters, which would deepen the pool of available interpreters. Additional proposed amendments include removing the requirement to conduct a market survey and prohibiting court employees not hired as staff interpreters from interpreting in court proceedings.

Following a discussion, the committee made minor language amendments to the rules. "Administrative Office" is a defined term and should be consistent throughout each rule.

Mr. Puente requested approval of the proposed amendments to rule 3-306.04 on an expedited basis, and Ms. Williams recommended amending the entire packet of rules at the same time. Ms. Williams proposed a February 27, 2024 effective date.

***Following further discussion, Judge Carpenter moved to recommend to the Judicial Council that the proposed amendments to CJA rules 3-306.02, 3-306.03, 3-306.04, and 3-306.05 be approved as final with an expedited effective date of February 27, 2024. Judge DiReda seconded the motion. The motion passed unanimously.***

**(6) CJA 6-304. Grand jury panel**

The proposed amendments change all member terms to 5 years, with no member serving more than 2 consecutive terms, and eliminate the requirement to publish procedures under paragraph (8). Retiring members would be allowed to finish out a term as an active senior judge.

The committee did not recommend additional amendments.

***Following a discussion, Judge Carpenter moved to recommend to the Judicial Council that CJA rule 6-304 be approved for a 45-day public comment period. Judge Gardner seconded the motion. The motion passed unanimously.***

**(7) HR Policies:**

- HR07-03. 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

The Human Resources Policy Review Committee approved the proposed amendments to HR policies. The amendments:

- extend the 7-hour leave accrual benefit to new hires in the Judicial Research and Data Department, consistent with similar IT positions;
- amend the definition of “leave bank” to loosen eligibility requirements for the Leave Bank, allowing greater utilization;
- bring transparency to the compensation structure for ERG involvement while complying with the FLSA;
- delete a reference to the Division of Human Resources Utah Performance Management System, which the judicial branch does not use;
- reduce the grievance period from 60 days to 10 days; and
- clarify the reporting of absences for FLSA employees.

The committee did not recommend additional amendments. As the HR policies are internal policies, they do not go out for public comment.

***With no further discussion, Judge Gardner moved to recommend to the Judicial Council that HR policies 07-03, 07-20, Definition (45), 13-1, 13-2, 13-3, 13-4, 08-02, 03-4, 06-9, 17-5, 17-6, 17-7, and 08-7 be approved as proposed. Judge Carpenter seconded the motion. The motion passed unanimously.***

#### **Technology report/proposals:**

The Technology Advisory Committee will be meeting in March to discuss the courts’ emergency response plan, specifically addressing steps that will be taken if a cyber security event takes out Information Technology infrastructure. The committee will be reviewing the current procedural plan and updating it to include a list of key internal contacts, vendors, and local law enforcement support.

The committee will also be conducting a final review of the device standard for court-owned laptops and meeting with the Education Department to develop an internal cyber security awareness training for all judicial branch employees. The current cyber security awareness training is created by the Department of Technology Services, much of which does not apply to the judiciary. The internal training will be made available to judicial branch employees through the Learning Management System.

#### **Old Business/New Business:**

Judge Gardner noted that, at its last meeting, the Judicial Council discussed creating a Code of Judicial Administration rule for holding virtual and in-person hearings. The rule would address when it is appropriate to hold virtual, hybrid, or in-person hearings, factoring in the parties’ unique situation. A draft rule may be coming to PP&T for review at a future meeting.

**Adjourn:** With no further items for discussion, the meeting adjourned at 1:50 p.m. The next meeting will be held on March 1, 2024, at noon via Webex video conferencing.