

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

June 14, 2024 – 12:00 p.m. to 1:30 p.m.

Webex

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Chiara
12:05	CJA 1-205. Standing and ad hoc committees CJA 3-422. Tribal Liaison Committee (NEW)	Action	Tab 2	Amy Hernandez
	CJA 3-501. Insurance benefits upon retirement	Action	Tab 3	Bart Olsen Sarah Osmund
	CJA 2-102. Council agenda	Action	Tab 4	Keisa Williams
	CJA 4-101. Manner of appearance (NEW)	Action	Tab 5	Keisa Williams
1:00	Technology report/proposals	Discussion		Brody Arishita
1:25	Old Business/New Business			
1:30	Adjourn			

2024 Meetings:

July 5, 2024

October 4, 2024

August 2, 2024

November 1, 2024

September 6, 2024

December 6, 2024

TAB 1

Minutes

May 17, 2024

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

Webex video conferencing
May 17, 2024 – 12 p.m.

DRAFT

MEMBERS:

PRESENT

EXCUSED

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

GUESTS:

Neira Siaperas
Nick Stiles
Paul Barron
Jon Puente
Lauren Anderson
Jessica Leavitt
Keri Sargent

STAFF:

Keisa Williams
Brody Arishita

(1) Welcome and approval of minutes:

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

(2) Rules back from public comment:

- Language Access Rules (*approved on an expedited basis, 2/27/24 effective date*)
 - **CJA 3-306.02. Language Access Committee**
 - **CJA 3-306.03. Interpreter credentialing**
 - **CJA 3-306.04. Interpreter appointment, payment, and fees**
 - **CJA 3-306.05. Interpreter removal, discipline, and formal complaints (REPEAL)**
- Senior Judge Rules
 - **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**
- **CJA 6-304. Grand jury panel**

No public comments were received for the grand jury or senior judge rules. One comment was received regarding the Language Access rules. The commenter was supportive of the changes overall, but expressed concern about removing the employee benefit language for staff interpreters in 3-

306.04(2)(A). That language was removed because staff interpreters are court employees entitled to benefits and subject to discipline under HR policies. Removing the language does not impact wages or benefits for those employees.

CJA 306.04(2)(C): When the JC approved amendments to the language access rules on an expedited basis back in February, Judge Lindsley asked that PP&T consider adding (2)(C) back into the rule when the rule came back from public comment to ensure judges have the ability to appoint court employees (not hired as interpreters) for limited purposes, such as rescheduling a hearing when an interpreter is not available.

Following a discussion, the committee determined that the language in (2)(C) is unnecessary because judges may appoint an employee for such limited purposes under (1)(C) by making certain findings on the record, to include: 1) the individual has the skills necessary to interpret, 2) the appointment would not present a conflict or appearance of bias, 3) a certified, approved, or registered interpreter is not reasonably available, and 4) the gravity of the legal proceeding and potential consequences are so minor that delays are not justified.

Because the language access rules were approved on an expedited basis, no further action is necessary. Judge Chiara will discuss the committee's decision regarding the language in (2)(C) during his PP&T report at the beginning of the next Council meeting.

Judge Bazzelle moved to recommend to the Judicial Council that the amendments to CJA rule 6-304 be adopted as final with a November 1, 2024 effective date, and the senior judge rules listed above be adopted as final with the same effective date as the two associated Supreme Court rules (11-201 and 11-203). Judge Carpenter seconded the motion. The motion passed unanimously.

(3) CJA 3-419. Office of Fairness and Accountability

CJA 3-420. Committee on Fairness and Accountability Judicial Inclusion Mentorship Program

Jon Puente noted that the Committee on Fairness and Accountability (Committee) does not recommend making amendments to rule 3-419 or 3-420. However, if PP&T or the Council determine that amendments are necessary, the Committee recommended one minor amendment to rule 3-419. Ms. Williams added section headings to rules 3-419 and 3-420 to make the formatting consistent throughout the CJA. In rule 3-419, Mr. Puente proposed updating the title of the Data and Research Department in line 56 and removing the communication and information program in line 99, as that is now a separate department. Ms. Williams proposed a few minor amendments to the Judicial Inclusion Mentorship Program materials to keep the language consistent with the proposed amendments in rule 3-419.

Following discussion, PP&T took no action.

(4) CJA 4-403. Electronic signature and signature stamp use

At its March 1st meeting, PP&T reviewed a draft of rule 4-403 submitted by Meredith Mannebach (changes proposed by the district, juvenile, and justice court boards of judges). Because the proposed amendments would grant judges and commissioners more discretion than what is currently authorized under the rule, PP&T determined that the underlying question of discretion is a policy decision that must be made by the Judicial Council, but before it goes to the Council, PP&T asked Ms. Williams to draft various options with differing levels of discretion and seek feedback from each board. Ms. Williams

presented three options to the boards and asked them to vote on their 1st and 2nd choice. All three options are included in the packet. The boards voted as follows:

Board of district court judges:

- Option 3
- Option 1

Board of justice court judges

- Option 3
- Option 2

Board of juvenile court judges:

- Option 1
- Option 3

PP&T discussed each option and deemed Option 2 unnecessary because it could be incorporated into Option 3. In Option 3, PP&T deleted the unanimous vote provision in (2)(A)(i) and amended paragraph (2)(A) to account for the concern that a Presiding Judge could override an individual judge's preference.

Paragraph (2)(A) in Option 3 now reads as follows:

*(2)(A) **Trial courts of record.** In a court of record, a judge or commissioner may authorize a clerk to use the electronic signature or signature stamp of the judge or commissioner, in lieu of obtaining the judge's or commissioner's signature, on document types listed in paragraph (1) and document types authorized by a standing order issued by the presiding judge of that district.*

*(2)(A)(i) **Standing order.** The presiding judge of a juvenile or district court may, by standing order, authorize clerks to use the electronic signature or signature stamp of a judge or commissioner in the district, in lieu of obtaining the judge's or commissioner's signature, on document types not listed in paragraph (1).*

*(2)(A)(ii) **Retention.** Standing orders and documentation of the authorization shall be maintained in accordance with the Utah State Courts Records Retention Schedule.*

The proposed document types in paragraph (1) of Option 3 were deleted because individual districts could add those document types to their local orders, but because the Council retains discretion in Option 1, the boards' proposed edits to paragraph (1) in Option 1 remain.

PP&T ask Ms. Williams to draft a memo to the Council outlining Options 1 and 3 for the Council's June meeting. The Council could decide to send one or both rules out for public comment, send them back to PP&T for further review, or take no action.

Technology report/proposals:

- Court Employee Device Standard Policy
- Technology Emergency Response Plan

The Management Committee approved the Court Employee Device Standard Policy and the Technology Emergency Response Plan with a May 14th effective date. The Technology Advisory Subcommittee (TAC) meets in July to discuss the strategic plan. Mr. Arishita will report back.

Old Business/New Business:

Due to scheduling conflicts, the June PP&T meeting was moved to June 14th from 12-1:30pm.

Judge Gardner talked with Judge Mettler about the manner of appearance rule. Notice provisions were removed from the procedural rules and should be included in CJA 4-101. Ms. Williams will add CJA 4-101 to PP&T's June agenda.

Adjourn: With no further items for discussion, the meeting adjourned at 1:50 p.m. The next meeting will be held on May 17, 2024, at noon via Webex video conferencing.

TAB 2

CJA 1-205. Standing and Ad Hoc Committees

CJA 3-422. Tribal Liaison Committee (NEW)

Notes: Rule 3-422 creates a new Judicial Council standing committee, the Tribal Liaison Committee. Membership is outlined in rule 1-205.

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); and

(1)(A)(xvi) Tribal Liaison Committee.

(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.

(1)(B)(iii)(m) 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) 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) one representative of the community;

(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 state education representative.

(1)(B)(vi)(l) 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.

(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) 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.

(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; and

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

~~(1)(B)(xii)(p) 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) 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 representative of the community;

(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); and

(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)(B)(xvi) The **Tribal Liaison Committee** performs the duties described in rule 3-422 and shall consist of:

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

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

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

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

(1)(B)(xvi)(e) one federal district judge;

(1)(B)(xvi)(f) one tribal judge;

(1)(B)(xvi)(g) two representatives of Utah's Indian Tribes or affiliated
community groups;

(1)(B)(xvi)(h) the Tribal Liaison;

(1)(B)(xvi)(i) one Trial Court Executive;

(1)(B)(xvi)(j) one Clerk of Court or designee;

(1)(B)(xvi)(k) one representative from the Utah State Bar Indian Law
Section;

(1)(B)(xvi)(l) one representative from the United States Attorney's Office;

(1)(B)(xvi)(m) one representative from the Indigent Defense Commission;
and

(1)(B)(xvi)(n) one representative from the Guardian ad Litem's Office.

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

(3) **General provisions.**

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

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

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

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

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

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

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

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

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

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

Effective: ~~November~~June 1, 202~~4~~3

Rule 3-422. Tribal Liaison Committee**Intent:**

To establish the Tribal Liaison Committee to serve as a core leadership team for the Tribal Liaison and to provide subject matter expertise to the Judicial Council regarding matters impacting both the judiciary and tribal courts.

Applicability:

This rule applies to the judiciary.

Statement of the Rule:

(1) The Tribal Liaison Committee shall study government-to-government matters which impact both the judiciary and tribal courts and propose policy recommendations concerning such matters to the Council.

(2) Duties of the committee. The Committee shall:

(2)(A) provide support and guidance to the Tribal Liaison;

(2)(B) review collaborative tribal and Court activities and government-to-government matters which impact the judiciary and tribal courts;

(2)(C) research, develop, and recommend policies and procedures regarding such government-to-government matters and collaborative activities;

(2)(D) identify matters which should be presented to the Council for consideration and recommend individuals with special expertise who could act as a resource for the Council on the matter; and

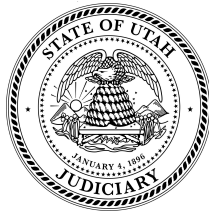
(2)(E) research, develop, and recommend policies and procedures for establishing and maintaining compliance with consultation agreements with Utah's Indian Tribes.

Effective: November 1, 2024

TAB 3

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

May 31, 2024

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

MEMORANDUM

TO: Members of the Policy, Planning & Technology Committee/Judicial Council

FROM: Bart Olsen, Director of Human Resources, Administrative Office
Sarah Osmund, Human Resources Specialist, Administrative Office

RE: Revised UCJA Rule 3-501 (Code of Judicial Administration) for Approval

The purpose of this memorandum is to provide important context on the accompanying proposed revisions to [UCJA Rule 3-501](#) for review and approval. The proposed revisions are so numerous that the final product may be difficult to read. Therefore, a red-line version and a proposed clean version are attached for clarity.

Background

The current language in Rule 3-501 lacks clear and concise information regarding insurance benefits upon retirement for judges, justices, and court commissioners. Too often, judicial officers nearing retirement express frustration and confusion when attempting to apply the rule to their own circumstances. Problems with the rule as it stands today include:

1. The provisions in the rule addressing its intent and applicability fail to clarify the longstanding practice: that these benefits only apply to court commissioners and judges of courts of record. Nor does it clarify that Rule 3-501 also includes information about the incentive benefit for active senior judges of courts of record.
2. The frequent repetition of the list of eligible judicial officers ("the justice, judge, or court commissioner") throughout the rule interferes with the rule's clarity. The list repeats a total of 15 times in provisions 1-4.
3. 3-501(1) describes a benefit that is "earned" of eight months paid insurance for each year the judicial officer uses less than four days of sick leave. In confusing contrast, 3-501(2) describes an "automatic" benefit of paid insurance for a "maximum of five years,"

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

implying that the judicial officer must do nothing else to receive that benefit other than retire.

- a. The description of automatic benefits in provision (2) might make sense if the automatic benefit provided a minimum benefits duration of five years to the judicial officer upon retirement; however, it reads that the recipient “shall receive a maximum of five years ...” (emphasis added).
 - b. Absent an established minimum duration of the automatic benefits, the reader is left to understand the automatic benefit is either ALWAYS five years, or calculated the same way the earned benefit is calculated. No other manner of calculation is provided anywhere in the rule.
 - i. If the automatic benefit is ALWAYS five years, the rule should clarify that a judicial officer can earn more than the automatic five years up to a total of seven years of paid insurance, but it does not - so this interpretation is problematic.
 - ii. If calculated the same way the earned benefit is calculated, there would be no difference between the automatic benefit and the earned benefit - so this interpretation is illogical.
 - iii. We are unaware of any point in history that the judiciary has simply awarded an automatic benefit of five years paid insurance to any judicial officer simply because they retired and were eligible for retirement benefits.
4. The specific type of life insurance benefits provided (employer-funded basic life) is not clarified in provision (1)(A).
 5. The process described in provision (1)(A) for a judicial officer to submit an annual application for the earned benefit, showing that there is not another medical insurance policy that provides comparable coverage, does not describe to whom the judicial officer submits such an application. Possibly due in part to that ambiguity, the earned benefit has been provided to otherwise eligible retired judicial officers for many years without requiring this annual application.
 6. The specific types of insurance coverage provided is inadequately described in (1)(C), omitting a large amount of clarifying information.
 7. The duration of benefits described in provision (3) is unclear at best, leaving most readers baffled at exactly how long a judicial officer might plan to receive the benefits. The formula for calculating benefit duration is relatively clear and simple, but is not provided with transparency in the rule.
 8. The description in provision 5(C) is unclear on what party bears responsibility to coordinate with Utah Retirement Systems (URS) about receiving the incentive benefit and with the Public Employee Health Program (PEHP) about their portion of insurance premium deductions.

The proposed amendments were developed by the Human Resources Department to resolve all of the aforementioned issues. We believe it would facilitate consistency and clarity on the administration of these benefits moving forward.

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

To establish uniform policies regarding sick leave for justices, judges, and court commissioners, of courts of record, and conversion of sick leave to paid-up medical, dental, prescription drug, and employer-funded basic life insurance benefits at the time of retirement; and to establish uniform policies for incentive benefits for active senior judges of courts of record.

Applicability:

~~This rule shall apply to all justices, judges, and court commissioners of courts of record. Provisions (1) through (4) of this rule applies to all justices, judges, and court commissioners of courts of record, not including active senior judges, hereafter referred to as "judicial officers." Provision (5) and (6) of this rule apply only to active senior judges 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~~ judicial officer uses less than four days of sick leave in a calendar year, the ~~judge, justice, or court commissioner~~ judicial officer ~~will be eligible for and accumulate~~ accrues eligibility for eight months of paid-up medical ~~insurance~~, dental ~~insurance~~, prescription drug ~~insurance~~ and employer-funded basic life insurance benefits at the time of retirement. Dental and employer-funded basic life insurance coverage is dependent upon the judicial officer's age at retirement. Upon retirement, the ~~submission of~~ judicial officer shall declare to the Human Resources Department if they are otherwise covered by a comparable medical insurance policy. If not, the judicial officer shall receive the accrued insurance benefits. 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, and prescription drug insurance coverage provided will be the same as that carried by the ~~justice, judge, or court commissioner~~ judicial officer at retirement, ~~i.e., family, two party, single.~~ if the judicial officer is under age 65 at retirement. The judicial officer shall continue to pay their portion of the shared premiums, and the judiciary shall continue to pay their portion of the shared premiums.

(1)(D) Medical and prescription drug insurance coverage provided will convert to the PEHP Medicare Supplement and Enhanced Pharmacy insurance benefits if the judicial officer is age 65 or older ~~on the effective date of retirement.~~ Dental and employer-funded basic life insurance benefits shall terminate when the judicial officer is eligible for Medicare. The judiciary covers 100% of the cost of premiums for the PEHP Medicare Supplement and Enhanced Pharmacy plans for the judicial officer and spouse.

(1)(D)(i) If the judicial officer is enrolled in a high deductible plan, it is their responsibility to stop all contributions (employee and employer) six months prior to applying for Medicare benefits to avoid a Social Security (Medicare) penalty

tax. The judicial officer is responsible for contacting the PEHP Flex Department to stop all contributions.

(1)(D)(ii) If the spouse of the judicial officer is not Medicare eligible when the judicial officer retires, the spouse's coverage will remain the same as that carried by the judicial officer at retirement until the spouse is eligible for Medicare or until earned benefits are exhausted, whichever is earlier.

~~(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 earned benefits shall be calculated ~~from the~~based on the judicial officer's last work day. Active employee insurance coverage ends on the last day of the month in which the judicial officer worked. Retiree insurance coverage or the PEHP Medicare Supplement and Enhanced Pharmacy coverage begins on the first of the month following the judicial officer's last work day. 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.~~

YEARS in which judicial officer used fewer than 4 days of sick leave in the calendar year	TOTAL NUMBER OF MONTHS PAID INSURANCE (1 year --> 8 months)	YEARS OF PAID INSURANCE
1 year	8 months	
2 years	16 months	1 year, 4 months
3 years	24 months	2 years
4 years	32 months	2 years, 8 months
5 years	40 months	3 years, 4 months
6 years	48 months	4 years
<u>7 years</u>	<u>56 months</u>	<u>4 years, 8 months</u>
<u>8 years</u>	<u>64 months</u>	<u>5 years, 4 months</u>
<u>9 years</u>	<u>72 months</u>	<u>6 years</u>
<u>10 years</u>	<u>80 months</u>	<u>6 years, 8 months</u>
<u>11 years</u>	<u>88 months</u>	<u>7 years</u>

(3)(B) If the judicial officer is under age 65 at retirement, retiree insurance coverage shall
~~Earned benefits and automatic benefits shall terminate~~ convert to the PEHP Medicare

Supplement and Enhanced Pharmacy insurance coverage, when the justice, judge, or commissioner is eligible for Medicare, except that prescription drug insurance and supplemental Medicare insurance and coverage shall continue for the remaining balance duration of the term of earned or automatic benefits. Dental and employer-funded basic life insurance benefits shall terminate when the judicial officer reaches age 65.

(3)(C) If the judicial officer is under age 65 at retirement but the spouse is 65 or older, the spouse's coverage will remain the same as that carried by the judicial officer at retirement until the judicial officer becomes eligible for Medicare. The spouse's retiree insurance coverage shall convert to the PEHP Medicare Supplement and Enhanced Pharmacy insurance coverage, and shall continue for the remaining duration of the term of earned benefits. ~~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~~ judicial officer terminate when the ~~justice, judge, or court commissioner~~ judicial officer reaches age 65 or until the dependent reaches age 26, whichever is earlier.

(3)(E) Additional life insurance coverage shall terminate for the judicial officer's spouse and dependent(s) when employment ends.

(4) **Recording sick leave.** As authorized by Utah Code § 78A-2-107(19)(j), the state court administrator or designee will develop methods for recording sick leave used each year by ~~judicial officers, 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~~ reaches age 65. The judiciary will pay 50% of the cost of the PEHP Medicare Supplement and Enhanced Pharmacy insurance coverages ~~supplemental Medicare insurance and prescription drugs~~ for a qualifying active senior judge and spouse if the active senior judge ~~is age~~ and spouse are 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(c) 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 ~~active senior judge is responsible for their portion of insurance premium deductions and shall coordinate with URS and/or PEHP as applicable. 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 ~~and the Human Resources Department~~ 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 shall notify URS-PEHP~~ of the change in status.

(7) **Availability of funds.** ~~This policy will be implemented~~ Implementation of this rule is subject to availability of funds.

Effective: ~~6/28/2021~~ August 1, 2024

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

To establish uniform policies regarding sick leave for justices, judges, and court commissioners, of courts of record, and conversion of sick leave to paid medical, dental, prescription drug, and employer-funded basic life insurance benefits at the time of retirement; and to establish uniform policies for incentive benefits for active senior judges of courts of record.

Applicability:

Provisions (1) through (4) of this rule applies to all justices, judges, and court commissioners of courts of record, not including active senior judges, hereafter referred to as "judicial officers." Provision (5) and (6) of this rule apply only to active senior judges of courts of record.

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

(1)(A) For each year of full-time employment that a judicial officer uses less than four days of sick leave in a calendar year, the judicial officer accrues eligibility for eight months of paid-medical, dental, prescription drug and employer-funded basic life insurance benefits at the time of retirement. Dental and employer-funded basic life insurance coverage is dependent upon the judicial officer's age at retirement. Upon retirement, the judicial officer shall declare to the Human Resources Department if they are otherwise covered by a comparable medical insurance policy. If not, the judicial officer shall receive the accrued insurance benefits. (1)(B) Maternity leave and parental leave is considered sick leave for determining benefits under this rule.

(1)(C) Medical, dental, and prescription drug insurance coverage provided will be the same as that carried by the judicial officer at retirement if the judicial officer is under age 65 at retirement. The judicial officer shall continue to pay their portion of the shared premiums, and the judiciary shall continue to pay their portion of the shared premiums.

(1)(D) Medical and prescription drug insurance coverage provided will convert to the PEHP Medicare Supplement and Enhanced Pharmacy insurance benefits if the judicial officer is age 65 or older on the effective date of retirement. Dental and employer-funded basic life insurance benefits shall terminate when the judicial officer is eligible for Medicare. The judiciary covers 100% of the cost of premiums for the PEHP Medicare Supplement and Enhanced Pharmacy plans for the judicial officer and spouse.

(1)(D)(i) If the judicial officer is enrolled in a high deductible plan, it is their responsibility to stop all contributions (employee and employer) six months prior to applying for Medicare benefits to avoid a Social Security (Medicare) penalty tax. The judicial officer is responsible for contacting the PEHP Flex Department to stop all contributions.

(1)(D)(ii) If the spouse of the judicial officer is not Medicare eligible when the judicial officer retires, the spouse's coverage will remain the same as that carried by the judicial officer at retirement until the spouse is eligible for Medicare or until earned benefits are exhausted, whichever is earlier.

(3) Duration of benefits.

(3)(A) The duration of earned benefits shall be calculated based on the judicial officer's last work day. Active employee insurance coverage ends on the last day of the month in which the judicial officer worked. Retiree insurance coverage or the PEHP Medicare Supplement and Enhanced Pharmacy coverage begins on the first of the month following the judicial officer's last work day. Earned benefits shall not exceed seven years.

YEARS in which judicial officer used fewer than 4 days of sick leave in the calendar year	TOTAL NUMBER OF MONTHS PAID INSURANCE (1 year --> 8 months)	YEARS OF PAID INSURANCE
1 year	8 months	
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6 years	48 months	4 years
7 years	56 months	4 years, 8 months
8 years	64 months	5 years, 4 months
9 years	72 months	6 years
10 years	80 months	6 years, 8 months
11 years	88 months	7 years

(3)(B) If the judicial officer is under age 65 at retirement, retiree insurance coverage shall convert to the PEHP Medicare Supplement and Enhanced Pharmacy insurance coverage, and coverage shall continue for the remaining duration of the term of earned benefits. Dental and employer-funded basic life insurance benefits shall terminate when the judicial officer reaches age 65.

(3)(C) If the judicial officer is under age 65 at retirement but the spouse is 65 or older, the spouse's coverage will remain the same as that carried by the judicial officer at retirement until the judicial officer becomes eligible for Medicare. The spouse's retiree insurance coverage shall convert to the PEHP Medicare Supplement and Enhanced Pharmacy insurance coverage, and shall continue for the remaining duration of the term of earned benefits.

(3)(D) Earned benefits for dependents, other than a spouse, of the judicial officer terminate when the judicial officer reaches age 65 or until the dependent reaches age 26, whichever is earlier.

(3)(E) Additional life insurance coverage shall terminate for the judicial officer's spouse and dependent(s) when employment ends.

(4) **Recording sick leave.** As authorized by Utah Code § 78A-2-107(1)(j), the state court administrator or designee will develop methods for recording sick leave used each year by judicial officers.

68 **(5) Active senior judge incentive benefit.**

69 (5)(A) The judiciary will pay 50% of the cost of medical and dental insurance premiums
70 for a qualifying active senior judge and spouse until the qualifying active senior judge
71 reaches age 65. The judiciary will pay 50% of the cost of the PEHP Medicare
72 Supplement and Enhanced Pharmacy insurance coverage for a qualifying active senior
73 judge and spouse if the active senior judge and spouse are 65 or older.

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

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

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

77 (5)(B)(iii) submit to the state court administrator or their designee a letter
78 expressing an intent to participate in the incentive benefit program;

79 (5)(B)(iv) comply with qualifications for reappointment as outlined in Rule 11-
80 201(c) during the active senior judge's term of appointment; and

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

84 (5)(C) The active senior judge is responsible for their portion of insurance premium
85 deductions and shall coordinate with URS and/or PEHP as applicable

86 **(6) Inactive status.** If an active senior judge who receives the incentive benefit changes to
87 inactive status, the senior judge shall notify the state court administrator or designee and the
88 Human Resources Department in writing that the active senior judge has converted to inactive
89 status and is receiving the incentive benefit. Human Resources shall notify PEHP of the change
90 in status.

91 **(7) Availability of funds.** Implementation of this rule is subject to availability of funds.

92 *Effective: August 1, 2024*

TAB 4

CJA 2-102. Council agenda

Notes: The Management Committee tasked PP&T with drafting a rule:

- formalizing the existence of the Council's consent calendar;
- listing the kinds of things that can be placed on the consent calendar;
- outlining the process for removing items from the consent calendar; and
- requiring a vote on the consent calendar.

CJA rule 2-102 seemed like the best fit. It's impossible to account for every issue that may come up, so I tried to keep it broad and build in discretion.

Rule 2-102. Council agenda.**Intent:**

To identify the Management Committee's responsibility for establishing the annual schedule of Council meetings and the agenda for each Council meeting.

To establish a procedure for placing items on the Council agenda for consideration.

Applicability:

This rule shall apply to all meetings of the Council.

Statement of the Rule:

(1) **Management Committee.** The Management Committee is responsible for establishing the agenda for each Council meeting and for establishing an annual schedule of Council meetings.

(2) **Annual schedule.** The annual schedule shall include the date and time of Council meetings and shall provide adequate time to review planning, legislation, ~~and~~ budget issues, Council rules, and other matters identified by the Committee. The schedule shall be published by the Committee on an annual basis.

(3) **Requests.** The ~~agenda for each Council meeting shall be established by the~~ Management Committee, ~~which~~ is responsible for receiving requests for agenda items from the Boards, the Council's standing committees, court staff, and other interested agencies, organizations and individuals.

(3)(A) Boards – Executive Committees – Council members. Any items recommended for placement on the Council agenda by the Boards, an executive committee of the Council, the Council as a whole, or individual Council members shall be placed on the agenda by the Management Committee.

(3)(B) All other requests. The Management Committee shall review all other requests, ~~received, approve appropriate matters for Council consideration and, with the assistance of the Administrative Office, collect the necessary background information for presentation to the Council.~~ Matters ~~which are~~ approved for Council consideration will be placed on the Council agenda as soon as ~~the requisite~~ the necessary background information is available and subject to the scheduling limitations of the Council.

(4) Agenda. Council agendas shall be divided into two parts: the main agenda and the consent calendar. Unless otherwise directed by the Council, the Management Committee shall place approved items on the Council agenda consistent with the following:

(4)(A) Main agenda. The following matters shall be placed on the Council's main agenda, unless otherwise directed by the Council:

(4)(A)(i) standing committee reports;

(4)(A)(ii) standing or ad hoc committee sunset or reauthorization requests;

(4)(A)(iii) requests to certify, recertify, or dissolve justice courts;

(4)(A)(iv) senior judge resource requests and certifications;

(4)(A)(v) judicial retention election certifications;

(4)(A)(vi) court commissioner vacancies, appointments, and retention certifications;

(4)(A)(vii) rules recommended for final approval;

(4)(A)(viii) budget requests; and

(4)(A)(ix) any other matter deemed appropriate by the Council or the Management Committee.

(4)(B) **Consent calendar.** If approved by the Management Committee, the following matters shall be placed on the Council's consent calendar:

(4)(B)(i) rules recommended for public comment;

(4)(B)(ii) committee member appointments;

(4)(B)(iii) grant approvals;

(4)(B)(iv) court forms; and

(4)(B)(v) any other matter deemed appropriate by the Council or the Management Committee.

(5) **Consent calendar procedure.** Upon the request of a Council member, a matter may be moved from the consent calendar to the Council's main agenda for action or discussion. The Council may approve all items on the consent calendar without discussion by majority vote.

~~(4) Any items recommended for placement on Council agenda by the Boards, an executive committee, the Council as a whole or individual Council members shall be placed on the agenda by the Management Committee.~~

Effective: ~~April~~ November 1, 2024~~1997~~

TAB 5

CJA 4-101. Manner of appearance (NEW)

Notes: The Supreme Court published the proposed rules of civil, criminal, and juvenile procedure related to manner of appearance for public comment. The [comment period](#) ends July 5, 2024. Each of those rules is included in the packet.

I've amended the definitions in 4-101 to match those found in the procedural rules and included a notice provision that I hope will account for the various ways the court may respond to a request to appear by a different method.

The court already has a [link on the webpage](#) regarding remote appearance which includes a comprehensive [guide for pro se litigants](#) on how to participate in remote proceedings.

Rule 4-101. Manner of appearance.

Intent:

The intent of this rule is to establish notice and compliance requirements related to the manner of appearance in court proceedings.

Applicability:

This rule applies to civil and criminal matters in district, juvenile, and justice courts.

Statement of the Rule:

(1) Definitions.

(1)(A) “Hybrid hearing” means a hearing at which some participants appear in person and others appear remotely.

(1)(B) “In-person” means a participant will be physically present in the courtroom.

(1)(C) “In-person hearing” means a hearing where all participants appear in person.

(1)(D) “Participant” means the same as that term is defined in the applicable rule of procedure; Rule 87 of the Utah Rules of Civil Procedure, Rule 17.5 of the Utah Rules of Criminal Procedure, or Rule 61 of the Utah Rules of Juvenile Procedure.

(1)(E) “Remote” or “Remotely” means a participant will appear by video conference or other electronic means approved by the court.

(1)(F) “Remote hearing” means no participants will be physically present in the courtroom and all participants will appear remotely.

(2) Notice. When calendaring a hearing, the court must provide the participants with notice as to whether the court intends the hearing to be an in-person hearing, a remote hearing, or a hybrid hearing. Notice shall include:

(2)(A) the date, time, and subject of the hearing;

(2)(B) for in-person hearings, the physical address of the courthouse and the courtroom number;

(2)(C) for remote hearings, a Webex link, and a link to the courts’ website which includes information regarding attending a remote or hybrid hearing; and

(2)(D) for hybrid hearings, the information required in paragraphs (2)(B) and (2)(C).

(3) **Granted requests.** If a court grants a request to appear in a manner that is different from the manner noticed at calendaring, the court must include in its communication all information in paragraph (2) relevant to the new manner of appearance.

(4) **Court compliance and accountability.** Rule 87 of the Utah Rules of Civil Procedure, Rule 17.5 of the Utah Rules of Criminal Procedure, and Rule 61 of the Utah Rules of Juvenile Procedure impact the effective operation of the court, including docket management. As such, implementation and enforcement of those rules is the responsibility of each presiding judge pursuant to rules 3-104 and 9-109.

Effective November 1, 2024

Rule 87. In-person, remote, and hybrid hearings; requests for accommodation.

(a) Definitions.

(1) “Participant” means a party, an intervenor, a person who has objected to a subpoena, or an attorney for any such persons.

(2) “In-person” means a participant will be physically present in the courtroom.

(3) “In-person hearing” means a hearing where all participants appear in person.

(4) “Remote” or “remotely” means a participant will appear by video conference or other electronic means approved by the court.

(5) “Remote hearing” means no participants will be physically present in the courtroom and all participants will appear remotely.

(6) “Hybrid hearing” means a hearing at which some participants appear in person and others appear remotely.

(b) Setting hearing format; factors to consider. The court has discretion to set a hearing as an in-person hearing, a remote hearing, or a hybrid hearing. In determining which format to use for a hearing, the court will consider:

(1) the preference of the participants, if known;

(2) the anticipated hearing length;

(3) the number of participants;

(4) the burden on a participant of appearing in person compared to appearing remotely, including time and economic impacts;

(5) the complexity of issues to be addressed;

(6) whether and to what extent documentary or testimonial evidence is likely to be presented;

(7) the availability of adequate technology to accomplish the hearing’s purpose;

(8) the availability of language interpretation or accommodations for communication with individuals with disabilities;

(9) the possibility that the court may order a party, who is not already in custody, into custody;

(10) the preference of the incarcerating custodian where a party is incarcerated, if the hearing does not implicate significant constitutional rights; and

(11) any other factor, based on the specific facts and circumstances of the case or the court's calendar, that the court deems relevant.

(c) Request to appear by a different format.

(1) **Manner of request.** A participant may request that the court allow the participant or a witness to appear at a hearing by a different format than that set by the court. Any request must be made verbally during a hearing, by email, by letter, or by written motion, and the participant must state the reason for the request. If a participant is represented by an attorney, all requests must be made by the attorney.

(A) Email and letter requests.

(i) An email or letter request must be copied on all parties on the request;

(ii) An email or letter request must include in the subject line, "REQUEST TO APPEAR IN PERSON, Case _____" or "REQUEST TO APPEAR REMOTELY, Case _____;" and

(iii) An email request must be sent to the court's email address, which may be obtained from the court clerk.

(B) Request by written motion. If making a request by written motion, the motion must succinctly state the grounds for the request and be

50 accompanied by a request to submit for decision and a proposed order. The
51 motion need not be accompanied by a supporting memorandum.

52 (2) **Timing.** All requests, except those made verbally during a hearing, must be
53 sent to the court at least seven days before the hearing unless there are exigent
54 circumstances or the hearing was set less than seven days before the hearing date,
55 in which case the request must be made as soon as reasonably possible.

56 **(d) Resolution of the request.**

57 (1) **Timing and manner of resolution.** The court may rule on a request under
58 paragraph (c) without awaiting a response. The court may rule on the request in
59 open court, by email, by minute entry, or by written order. If the request is made
60 by email, the court will make a record if the request is denied.

61 (2) **Court's accommodation of participant's preference; factors to consider.** The
62 court will accommodate a timely request unless the court makes, on the record, a
63 finding of good cause to order the participant to appear in the format originally
64 noticed. The court may find good cause to deny a request based on:

65 (A) a constitutional or statutory right that requires a particular manner of
66 appearance or a significant possibility that such a right would be
67 impermissibly diminished or infringed by appearing remotely;

68 (B) a concern for a participant's or witness's safety, well-being, or specific
69 situational needs;

70 (C) a prior technological challenge in the case that unreasonably
71 contributed to delay or a compromised record;

72 (D) a prior failure to demonstrate appropriate court decorum, including
73 attempting to participate from a location that is not conducive to
74 accomplishing the purpose of the hearing;

(E) a prior failure to appear for a hearing of which the participant had notice;

(F) the possibility that the court may order a party, who is not already in custody, into custody;

(G) the preference of the incarcerating custodian where a party is incarcerated, if the hearing does not implicate significant constitutional rights;

(H) an agreement or any objection of the parties;

(I) the court's determination that the consequential nature of a specific hearing requires all participants to appear in person; or

(J) the capacity of the court, including but not limited to the required technology equipment, staff, or security, to accommodate the request.

(3) Effect on other participants. The preference of one participant, and the court's accommodation of that preference, does not:

(A) change the format of the hearing for any other participant unless otherwise ordered by the court; or

(B) affect any other participant's opportunity to make a timely request to appear by a different format or the court's consideration of that request.

Effective May/November 1, 20__

1 Rule 17.5. In-person, remote, and hybrid hearings; requests for accommodation.

2 (a) **Definitions.**

3 (1) “Participant” means a party, a participating victim, or an attorney for a party
4 or participating victim.

5 (2) “In-person” means a participant will be physically present in the courtroom.

6 (3) “In-person hearing” means a hearing where all participants appear in person.

7 (4) “Remote” or “remotely” means a participant will appear by video conference
8 or other electronic means approved by the court.

9 (5) “Remote hearing” means no participants will be physically present in the
10 courtroom and all participants will appear remotely.

11 (6) “Hybrid hearing” means a hearing at which some participants appear in person
12 and others appear remotely.

13 (b) **Setting hearing format; factors to consider.** The court has discretion to set a hearing
14 as an in-person hearing, a remote hearing, or a hybrid hearing. In determining which
15 format to use for a hearing, the court will consider:

16 (1) the preference of the participants, if known;

17 (2) the anticipated hearing length;

18 (3) the number of participants;

19 (4) the burden on a participant of appearing in person compared to appearing
20 remotely, including time and economic impacts;

21 (5) the complexity of issues to be addressed;

22 (6) whether and to what extent documentary or testimonial evidence is likely to be
23 presented;

24 (7) the availability of adequate technology to accomplish the hearing’s purpose;

(8) the availability of language interpretation or accommodations for communication with individuals with disabilities;

(9) the possibility that the court may order a party, who is not already in custody, into custody;

(10) the preference of the incarcerating custodian where a party is incarcerated, if the hearing does not implicate significant constitutional rights; and

(11) any other factor, based on the specific facts and circumstances of the case or the court's calendar, that the court deems relevant.

(c) Request to appear by a different format.

(1) **Manner of request.** A participant may request that the court allow the participant or a witness to appear at a hearing by a different format than that set by the court. Any request must be made verbally during a hearing, by email, by letter, or by written motion, and the participant must state the reason for the request. If a participant is represented by an attorney, all requests must be made by the attorney.

(A) Email and letter requests.

(i) An email or letter request must be copied on all parties;

(ii) An email or letter request must include in the subject line, "REQUEST TO APPEAR IN PERSON, Case _____" or "REQUEST TO APPEAR REMOTELY, Case _____;" and

(iii) An email request must be sent to the court's email address, which may be obtained from the court clerk.

(B) Request by written motion. If making a request by written motion, the motion must succinctly state the grounds for the request and be accompanied by a request to submit for decision and a proposed order. The motion need not be accompanied by a supporting memorandum.

(2) **Timing.** All requests, except those made verbally during a hearing, must be sent to the court at least seven days before the hearing unless there are exigent circumstances or the hearing was set less than seven days before the hearing date, in which cases the request must be made as soon as reasonably possible.

(d) Resolution of the request.

(1) **Timing and manner of resolution.** The court may rule on a request under paragraph (c) without awaiting a response. The court may rule on the request in open court, by email, by minute entry, or by written order. If the request is made by email, the court will make a record of the request if the request is denied.

(2) **Court's accommodation of participant's preference; factors to consider.** The court will accommodate a timely request unless the court makes, on the record, a finding of good cause to order the participant to appear in the format originally noticed. The court may find good cause to deny a request based on:

(A) a constitutional or statutory right that requires a particular manner of appearance or a significant possibility that such a right would be impermissibly diminished or infringed by appearing remotely;

(B) a concern for a participant's or witness's safety, well-being, or specific situational needs;

(C) a prior technological challenge in the case that unreasonably contributed to delay or a compromised record;

(D) a prior failure to demonstrate appropriate court decorum, including attempting to participate from a location that is not conducive to accomplishing the purpose of the hearing;

(E) a prior failure to appear for a hearing of which the participant had notice;

(F) the possibility that the court may order a party, who is not already in custody, into custody;

(G) the preference of the incarcerating custodian where a party is incarcerated, if the hearing does not implicate significant constitutional rights;

(H) a participant's involvement in a problem-solving court;

(I) an agreement or any objection of the parties;

(J) the court's determination that the consequential nature of a specific hearing requires all participants to appear in person; or

(K) the capacity of the court, including but not limited to the required technology equipment, staff, or security, to accommodate the request.

(3) Effect on other participants. The preference of one participant, and the court's accommodation of that preference, does not:

(A) change the format of the hearing for any other participant unless otherwise ordered by the court; or

(B) affect any other participant's opportunity to make a timely request to appear by a different format or the court's consideration of that request.

Effective May/November 1, 20__

Rule 61. In-person, remote, and hybrid hearings; requests for accommodation.**(a) Definitions.**

(1) “Participant” means a party, an intervenor, an attorney for a party or an intervenor, a parent of a minor in a delinquency matter, a juvenile probation officer in a delinquency matter, a worker for Juvenile Justice and Youth Services in a delinquency matter, or a victim in a delinquency matter.

(2) “In-person” means a participant will be physically present in the courtroom.

(3) “In-person hearing” means a hearing where all participants appear in person.

(4) “Remote” or “remotely” means a participant will appear by video conference or other electronic means approved by the court.

(5) “Remote hearing” means no participants will be physically present in the courtroom and all participants will appear remotely.

(6) “Hybrid hearing” means a hearing at which some participants appear in person and others appear remotely.

(b) Setting hearing format; factors to consider. The court has discretion to set a hearing as an in-person hearing, a remote hearing, or a hybrid hearing. In determining which format to use for a hearing, the court will consider:

(1) the preference of the participants, if known;

(2) the anticipated hearing length;

(3) the number of participants;

(4) the burden on a participant of appearing in person compared to appearing remotely, including time and economic impacts;

(5) the complexity of issues to be addressed;

(6) whether and to what extent documentary or testimonial evidence is likely to be presented;

(7) the availability of adequate technology to accomplish the hearing's purpose;

(8) the availability of language interpretation or accommodations for communication with individuals with disabilities;

(9) the possibility that the court may order a party, who is not already in custody, into custody;

(10) the preference of the incarcerating custodian where a party is incarcerated, if the hearing does not implicate significant constitutional rights; and

(11) any other factor, based on the specific facts and circumstances of the case or the court's calendar, that the court deems relevant.

(c) Request to appear by a different format.

(1) **Manner of request.** A participant may request that the court allow the participant or a witness to appear at a hearing by a different format than that set by the court. Any request must be made verbally during a hearing, by email, by letter, or by written motion, and the participant must state the reason for the request. If a participant is represented by an attorney, all requests must be made by the attorney.

(A) Email and letter requests.

(i) An email or letter request must be copied on all parties;

(ii) An email or letter request must include in the subject line, "REQUEST TO APPEAR IN PERSON, Case_____" or "REQUEST TO APPEAR REMOTELY, Case_____;" and

(iii) An email request must be sent to the court's email address, which may be obtained from the court clerk.

(B) Request by written motion. If making a request by written motion, the motion must succinctly state the grounds for the request and be accompanied by a request to submit for decision and a proposed order. The

52 motion need not be accompanied by a supporting memorandum.

53 (2) **Timing.** All requests, except those made verbally during a hearing, must be
54 sent to the court at least seven days before the hearing unless there are exigent
55 circumstances or the hearing was set less than seven days before the hearing date,
56 in which cases the request must be made as soon as reasonably possible.

57 (d) **Resolution of the request.**

58 (1) **Timing and manner of resolution.** The court may rule on a request under
59 paragraph (c) without waiting for a response. The court may rule on the request
60 in open court, by email, by minute entry, or by written order. If the request is made
61 by email, the court will make a record of the request if the request is denied.

62 (2) **Court's accommodation of participant's preference; factors to consider.** The
63 court will accommodate a timely request unless the court makes, on the record, a
64 finding of good cause to order the participant to appear in the format originally
65 noticed. The court may find good cause to deny a request based on:

66 (A) a constitutional or statutory right that requires a particular manner of
67 appearance or a significant possibility that such a right would be
68 impermissibly diminished or infringed by appearing remotely;

69 (B) a concern for a participant's or witness's safety, well-being, or specific
70 situational needs;

71 (C) a prior technological challenge in the case that unreasonably
72 contributed to delay or a compromised record;

73 (D) a prior failure to demonstrate appropriate court decorum, including
74 attempting to participate from a location that is not conducive to
75 accomplishing the purpose of the hearing;

76 (E) a prior failure to appear for a hearing of which the participant had
77 notice;

(F) the possibility that the court may order a party, who is not already in custody, into custody;

(G) the preference of the incarcerating custodian where a party is incarcerated, if the hearing does not implicate significant constitutional rights;

(H) an agreement or any objection of the parties;

(I) the court's determination that the consequential nature of a specific hearing requires all participants to appear in person; or

(J) the capacity of the court, including but not limited to the required technology equipment, staff, or security, to accommodate the request.

(3) Effect on other participants. The preference of one participant, and the court's accommodation of that preference, does not:

(A) change the format of the hearing for any other participant unless otherwise ordered by the court; or

(B) affect any other participant's opportunity to make a timely request to appear by a different format or the court's consideration of that request.

Effective May/November 1, 20