

UTAH JUDICIAL COUNCIL
POLICY, PLANNING and TECHNOLOGY COMMITTEE
MEETING MINUTES
Webex video conferencing
January 10, 2025 – 12 p.m.

MEMBERS:

PRESENT

EXCUSED

Judge James Gardner, <i>Chair</i>	✓	
Justice Paige Petersen	✓	
Judge Angela Fonnesbeck		✓
Judge Jon Carpenter	✓	

GUESTS:

Nini Rich
Shane Bahr
Keri Sargent
Kim Zimmerman
James Peters
Jon Puente
Janine Liebert

STAFF:

Keisa Williams
Todd Eaton
Cindy Schut

(1) Welcome and approval of minutes:

Judge Gardner welcomed the committee members to the Policy, Planning, and Technology Committee (PP&T) meeting. PP&T considered the minutes from the December 6, 2024 meeting. With no changes, Judge Carpenter moved to approve the minutes as presented. Justice Petersen seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

CJA 1-205. Standing and ad hoc committees (AMEND)
CJA 3-114. Judicial outreach (REPEAL)
CJA 3-302. Clerk of the court (AMEND)
CJA 3-303. Justice court clerks (AMEND)
CJA 4-401. Proceedings conducted by remote transmission (NEW)

The public comment period on the above rules has closed. Rules 1-205 and 3-114 were approved on an expedited basis and are currently in effect. No public comments were received. One public comment was received on rule 4-401 expressing confusion about whether the rule applies to telephone appearances. Language was added to clarify that the rule only applies to video conferencing platforms. One comment was received about clerk training, but it was unclear whether the comment was a reference to rule 3-302 or 3-303. Following a discussion, the Committee made no additional amendments to either rule.

Judge Gardner moved to send rules 3-302, 3-303, and 4-401 to the Judicial Council with a recommendation that they be approved as final with a May 1, 2025 effective date. Judge Carpenter seconded the motion. The motion passed unanimously.

(3) CJA 4-510.03 Qualification of ADR providers.

Nini Rich reviewed proposed amendments to CJA Rule 4-510.03 as described in detail in the memo provided to the committee members. In summary, the proposed amendments would remove the language that allows, but does not require, the Judicial Council to establish alternative education, training, and experience requirements for inclusion on the Utah Court Approved ADR Roster (Roster) as an arbitrator. The Judicial Council has never established such alternative requirements. An individual who practices arbitration, but who is not a member of the Utah State Bar, contacted the AOC and asked the Judicial Council to determine what constitutes other education, training, and experience requirements. Nini noted that there are four providers on the Roster who are arbitrators and eight providers who are mediators and arbitrators. These providers are members of the Utah State Bar and have been for at least 10 years. She further noted that the ADR director can exclude a provider as part of their authority to maintain the Roster.

Following a discussion, the Committee made the following changes:

- Removed the language in (6)(A) (lines 100-101) as it is vague and keeping it would require a process to be put in place for a provider to be approved by the Council;
- Removed the definitions for “ADR” and “Roster” (line 5) and “Director” (line 14) as there is a definition section in 4-501.01 that defines those terms;
- Replaced “Provider” with “provider” throughout as it is not a defined term;
- Added “in writing” on line 146;
- Removed “All” from lines 44, 69, and 74; and
- Added “New applicants must” in line 53 and “New applicants and providers must” in lines 56 and 59.

The Committee discussed revising the definition section in 4-501.01 to update terms and define “provider.” Ms. Williams will review the section and report back to the Committee.

With no further discussion, Judge Carpenter moved to send rule 4-510.03 to the Judicial Council with a recommendation that it be posted for a 45-day public comment period. Justice Petersen seconded the motion. The motion passed unanimously.

(4) CJA 1-101. General definitions – Rules of Construction.

The proposed amendments clarify and update uniform definitions in the CJA. The Committee discussed the removal of the definition of “Chair” (line 14) as it is confusing and possibly unnecessary. To be certain that “Chair” is not used elsewhere in the rules, Ms. Williams will conduct a search before the next PP&T meeting.

Ms. Sargent noted the definition for Court Level Administrator (line 20) should include the newly formed business and chancery court. The Committee added business and chancery court to this definition.

With no further discussion, Judge Gardner moved to send CJA 1-101 to the Judicial Council with a recommendation that it be posted for a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.

(5) CJA 4-111. Priority of post-conviction petitions in capital cases.

Shane Bahr reviewed proposed amendments that remove language requiring the AOC to prepare a monthly report on post-conviction petitions in capital cases. Currently, court staff compile the report manually and send it to judges with relevant cases. After consulting with the Capital Litigation Research Attorney and judges who have, or have had, post-conviction capital cases, they agree this report is no longer needed and creates unnecessary work.

The Committee discussed the portion of the rule in paragraph (1) that requires judges to expedite the procedures, hearings, and disposition of post-conviction petitions in capital cases above all other cases, except the trial and appeal of capital felonies. The rule went into effect on November 1, 1996. It is unclear if the Judicial Council still believes these cases should be expedited above all other cases. Following further discussion, the Committee determined that the language in paragraph (1) is a policy decision that should be made by the Judicial Council. Shane Bahr will seek feedback from the Capital Litigation Research Attorney and the Board of District Court Judges prior to the next Council meeting.

Judge Gardner moved to send CJA 4-111 to the Judicial Council for discussion. Judge Carpenter seconded the motion. The motion passed unanimously.

Technology report/proposals:

The Technology Advisory Committee (TAC) will meet on January 13, 2025 to discuss the Artic Wolf cybersecurity training, which is nearly ready for implementation. The IT department is working with the education department to facilitate the mandatory training and to ensure that completion is reported on LMS. TAC will also discuss the emergency response plan and create a restoration priority list, which will help identify essential court functions that could be affected in the event of an emergency impacting multiple systems.

Old Business/New Business: None.

Adjourn: With no further items for discussion, the meeting adjourned at 12:46 p.m. The next meeting will be held on February 7, 2025, at noon via Webex video conferencing.